

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Summary Report**

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee  
Hon. Dennis M. Perluss, Chair  
Family and Juvenile Advisory Committee  
Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs  
Appellate Advisory Committee  
Hon. Kathryn Doi Todd, Chair

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DATE: April 3, 2009

SUBJECT: Civil and Appellate Fee Waiver Rules and Forms (adopt new rules 3.57 and 8.26 of the California Rules of Court; amend rules 1.31, 3.50, 3.51, 8.100, 8.122, 8.128, 8.818, 8.821, 8.832, and 8.833; repeal rules 3.52, 3.53, 3.54, 3.55, 3.58, and 3.59; amend and renumber rules 3.56, 3.57, 3.60, 3.61, 3.62, and 3.63 as rules 3.52, 3.53, 3.54, 3.55, 3.56, and 3.58, respectively; revoke Judicial Council form FW-004; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-006, CIV-110, SUM-100, SUM-110, SUM-120, SUM-130, SUM-140, SUM-145, FL-110, APP-101-INFO, and APP-103; and adopt forms FW-007, FW-008, FW-010, FW-011, FW-012, FL-336, FL-337, FL-338; APP-015/FW-015-INFO and APP-016/FW-016) (Action Required).

Issue Statement

The Legislature has enacted a new law, Assembly Bill 2448 (Feuer) (Stats. 2008, ch. 462) (the fee waiver statutes), to govern the grant of an initial fee waiver and the process for subsequent recovery of the waived fees in appropriate cases. The fee waiver statutes were developed and sponsored by the Judicial Council in an effort to balance the court's fiscal responsibility with the need to ensure access to

justice for those without the means to pay court fees. The new statutes, Government Code sections 68630–68641, replace the current single code section currently governing fee waivers (§ 68511.3<sup>1</sup>) and incorporate into statute many of the fee waiver provisions previously in California Rules of Court, rules 3.50 through 3.63. The law becomes operative July 1, 2009.

The provisions in the fee waiver statutes are intended to ensure that indigent litigants have an opportunity to access the courts in a timely manner and receive notice of rights and obligations in connection with fee waivers. The new law also provides for recovery of initially waived fees by the court in certain situations, including providing for retroactive withdrawal of waivers where appropriate, liens by trial courts on settlement recoveries of more than \$10,000, and repayment of waived fees in family law matters under certain circumstances. Specific provisions are included for determination of fee waivers in appellate courts. This proposal includes new and revised forms to be used by parties and the court to implement this statutory scheme. The proposal also amends the rules of court to reflect changes in the law and repeals those rules now included in the statutes.

#### Recommendation

The Civil and Small Claims Advisory Committee, Family and Juvenile Law Advisory Committee, and Appellate Advisory Committee jointly recommend that the Judicial Council effective July 1, 2009:

1. Adopt new rules 8.26 and 3.57 of the California Rules of Court; amend rules 1.31, 3.50, 3.51, 8.100, 8.122, 8.128, 8.818, 8.821, 8.832, and 8.833; repeal rules 3.52, 3.53, 3.54, 3.55, 3.58, and 3.59; and amend and renumber rules 3.56, 3.57, 3.60, 3.61, 3.62, and 3.63 as rules 3.52, 3.53, 3.54, 3.55, 3.56, and 3.58;
2. Revise the following forms:
  - a. *Request to Waive Court Fees* (form FW-001)
  - b. *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO)
  - c. *Request to Waive Additional Court Fees (Superior Court)* (form FW-002)
  - d. *Order on Court Fee Waiver (Superior Court)* (form FW-003)
  - e. *Notice: Waiver of Court Fees (Superior Court)* (form FW-005)
  - f. *Request for Dismissal* (form CIV-110)
  - g. *Summons* (form SUM-100)
  - h. *Summons—Cross-Complaint* (form SUM-110)
  - i. *Summons (Joint Debtor)* (form SUM-120)
  - j. *Summons—Unlawful Detainer—Eviction* (form SUM-130)

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<sup>1</sup> All statutory references are to the Government Code unless otherwise specified.

- k. *Summons—Storage Lien Enforcement* (from SUM-140)
  - l. *Summons—Enforcement of State Housing Law* (form SUM-145)
  - m. *Summons (Family Law)* (form FL-110)
  - n. *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)
  - o. *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103);
3. Adopt the following mandatory forms:
- a. *Request for Hearing About Court Fee Waiver Order (Superior Court)* (form FW-006)
  - b. *Notice on Hearing About Court Fees* (form FW-007)
  - c. *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008)
  - d. *Notice to Court of Improved Financial Situation or Settlement* (form FW-010)
  - e. *Notice to Appear for Reconsideration of Fee Waiver* (form FW-011)
  - f. *Order on Court Fee Waiver After Reconsideration Hearing (Superior Court)* (form FW-012)
  - g. *Order to Pay Waived Court Fees and Costs (Superior Court)* (form FL-336)
  - h. *Application to Set Aside Order to Pay Waived Court Fees—Attachment* (form FL-337)
  - i. *Order After Hearing on Motion to Set Aside Order to Pay Waived Court Fees (Superior Court)* (form FL-338)
  - j. *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO);
4. Approve the optional form *Order on Court Fee Waiver (Court of Appeal or Supreme Court)* (form APP-016/FW-016); and
5. Revoke the current *Order on Application for Waiver of Additional Court Fees and Costs* (form FW-004).

The proposed civil rules are attached beginning on page 35, the proposed appellate rules are attached beginning on page 44, and the proposed forms are attached beginning on page 56.

A chart containing all comments from the winter 2009 circulation of the proposal, with the committees' responses, is attached beginning at page 112.

#### Rationale For Recommendation

This proposal comprises the second phase of the Judicial Council's efforts to revise and standardize court procedures for determining requests for fee waivers

and for subsequently recovering the waived fees in appropriate cases. The first phase was the legislative proposal, sponsored by the Judicial Council, that resulted in the new fee waiver statutes. The legislation was the outcome of work by the Fee Waiver Working Group, a subcommittee of the Judicial Council's Collaborative Court-County Working Group on Enhanced Collections, to develop statewide effective practices and procedures for processing fee waivers.

Most of the current fee waiver provisions have not been changed substantively but have been moved from the California Rules of Court (rules 3.50 et seq.) into statute (§ 68630 et seq.). The primary changes to the civil rules will be deleting provisions that will be in the statute effective July 1, 2009. The fee waiver statutes also modify some provisions currently in the statute and rules, which changes will be reflected in the proposed forms and rules. The fee waiver statutes limit what personal financial information can be required at the time of application, clarifies requirements as to opportunities for hearing and notice that an applicant must receive before a request is denied (which differ in superior and appellate courts) and narrow the times and reasons why a court may reconsider a waiver after it has been granted. The fee waiver statutes also increase the ways in which a court may recover waived fees, adding specific procedures for use in family law cases and imposing a lien in favor of the court on any settlement recovery or arbitration award over \$10,000 to a party whose fees have been waived.

To implement the provisions of the new fee waiver statutes, the civil rules and the appellate rules will be amended and the current set of fee waiver forms revised and expanded. Five of the six current fee waiver forms will be revised, one revoked, and six new fee-waiver forms added for use in superior court, all in plain language format. The new forms will be used by parties to request hearings or provide notice of improvements in financial circumstances. They will be used by the courts to provide notices mandated under the fee waiver statutes, including reasons for denials of a fee waiver request or for reconsideration of a previously granted waiver. Three new family law forms will be added to implement the new provisions directed to recovery of initially waived fees in family law cases. Several current civil forms, the *Request for Dismissal* (form CIV-110) and seven civil *Summons* forms, will be revised to add mandated notices regarding recovery of initially waived fees. In addition, two new fee waiver forms will be added for use in the appellate courts, and two current appellate forms will be revised to correctly reference the new rules.

#### Alternatives Considered

Assembly Bill 2448 mandates that the Judicial Council adopt rules and forms to establish uniform procedures to implement the fee waiver statutes by July 1, 2009. (§ 68641.) The committees discussed amending the current rules to reflect the provisions now in the statute, rather than recommending deletion of such

provisions from the rules. The committees concluded that, on the whole, it was better practice to not duplicate in the rules provisions that are now in the statute.

The committees considered developing additional rules and forms contemplated but not immediately mandated by the statutes, particularly in regards to prisoners and to payment of fees over time. The committees concluded that, in light of the shortened time frame in which the new forms and rules needed to be developed, they would defer consideration of these rules and forms to a future rules cycle.

#### Comments from Interested Parties Regarding Proposed Civil Rules and Forms

The proposal was circulated during the winter 2009 cycle, from December 12, 2008 to January 21, 2009. Twenty-one sets of comments were received, including comments from several individuals, legal aid groups, two State Bar committees, nine superior courts, the Trial Court Presiding Judges Advisory Committee/Court Executive Advisory Committee (TCPJAC/CEAC) Joint Rules Working Group, and the California Appellate Clerks Association. All comments are set forth in the comment chart attached to this report, along with the committees' responses.

In general, the commentators approved the proposal with some modifications, many of which have been implemented by the committees. The commentators also responded to specific questions raised in the invitation to comment, including whether an exception should be made for courts with electronic case management systems to the mandate that courts use Judicial Council form orders, how and to whom access to confidential financial information on fee waiver applications should be permitted, whether a single application form should be used for a waiver of trial court and appellate court fees, and whether the form orders should include, in the warnings to parties of the consequences of failure to act following denial of a waiver, a five-day extension of time for mailed service.

#### Implementation Requirements and Costs

The implementation of this proposal is legislatively mandated. Education of clerks and judicial officers will be required. Implementation will require additional hearings on eligibility, reconsideration, and recovery issues in the trial court. Additional clerk time will be required in tracking the amount of fees waived. Clerk time will be saved by elimination of the provisions authorizing the clerk or a county officer to make reasonable efforts to verify the litigant's financial condition. There will be costs involved to the courts in making new forms available to parties and there will be costs associated with creating electronic versions of the new forms. The increased recovery of initially waived fees should provide some additional funds to the court system as a whole.

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Issue Statement

The Legislature has enacted a new law, Assembly Bill 2448 (Feuer) (Stats. 2008, ch. 462) (the fee waiver statutes), to govern the grant of an initial fee waiver and the process for subsequent recovery of the waived fees in those cases in which it is appropriate. The fee waiver statutes were developed and sponsored by the Judicial

Council in an effort to balance the court's fiscal responsibility with the need to ensure access to justice for those without the means to pay court fees. The new provisions, Government Code sections 68630–68641, replace the current single code section governing fee waivers (§ 68511.3<sup>2</sup>) and incorporate into statute many of the fee waiver provisions currently in California Rules of Court, rules 3.50 through 3.63. The law becomes operative July 1, 2009.

The provisions in the fee waiver statutes are intended to ensure that indigent litigants have an opportunity to access the courts in a timely manner and receive notice of their rights and obligations in connection with court fee waivers. The new law also provides for recovery of initially-waived fees by the court under certain circumstances, including retroactive withdrawal of fee waivers where appropriate, liens by trial courts on settlement recoveries of more than \$10,000, and repayment of waived fees in family law matters in certain situations. Specific provisions are included for determination of fees in the appellate courts.

This proposal includes new and revised forms to be used by parties and the court to implement this statutory scheme. The proposal also amends the rules of court to reflect the changes in the law and to repeal those rules that are now included in statutory provisions.

### Background of Proposal

This proposal comprises the second phase of the Judicial Council's efforts to revise and standardize court procedures for determining requests for fee waivers and for subsequently recovering initially waived fees in those cases in which it is appropriate. The first phase was the legislative proposal that resulted in the new fee waiver statutes. The fee waiver statutes were the outcome of work begun in 2004 by the Fee Waiver Working Group, a subcommittee of the Judicial Council Collaborative Court-County Working Group on Enhanced Collections, to develop statewide effective practices and procedures for processing fee waivers. The membership of the working group included representatives from the courts (judicial officers and court administrators) and the legal services community. In early 2007, the Judicial Council approved the proposed legislation developed by the working group. The Legislature passed a bill incorporating the proposal later that year (AB 467 (Feuer)), but it was vetoed in October 2007. Assembly Bill 2448 was introduced during the following legislative session and is almost identical to AB 467.<sup>3</sup>

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<sup>2</sup> All statutory references are to the Government Code unless otherwise specified.

<sup>3</sup> The only differences are the elimination of one request for hearing option and a deferred operative date (July rather than January, to allow for development of these rules and forms).

The new fee waiver statutes largely parallel the existing requirements for fee waivers. While the new law includes some minor substantive changes, the primary change is that provisions currently in the Rules of Court (rules 3.50 et seq.) have been placed in the new statutes. The fee waiver statutes differ from the predecessor statute and current Rules of Court in the following ways.

#### *Organization and Structure*

The fee waiver statutes reorganize the statutory provisions in current law to make them easier to follow and implement. The statutes begin with findings that set forth the purpose of the new article (§§ 68630 and 68631) and then lay out each of the aspects of the fee waiver and recovery program: criteria for eligibility (§ 68632), application procedure (§ 68633), application processing and determination (§§ 68634–68635), reconsideration (§ 68636), recovery of fees and costs initially waived (§ 68637), enforcement (§ 68638), and expiration of the fee waiver order (§ 68639).

#### *Eligibility*

The fee waiver eligibility provisions have been largely maintained in section 68632 as they exist in current law, but three new income-based entitlement programs have been added to the list of public benefit programs which recipients of have an automatic right to an initial waiver of fees: Cash Assistance Program for Immigrants (CAPI), In-Home Supportive Services (IHSS), and Medi-Cal.

#### *Application Processing and Determination*

Sections 68634 and 68634.5 lay out clear procedures and time frames for acting on fee waiver applications. These specify that a clerk cannot deny a fee waiver application on his or her own authority but may be delegated authority to grant one. They also limit the documentation an applicant must provide to support the application at the time it is filed. Finally, they provide that the court must provide notice to an applicant whose application is being denied of the reasons for denial. A trial court must afford the applicant a reasonable opportunity to either correct the application (by submitting a revised one) if information is missing or to request a hearing to demonstrate eligibility. If a trial court has reason to doubt the truthfulness of the application or finds that the applicant's eligibility is ambiguous, then the court must set an eligibility hearing and give the applicant at least ten days' notice and specific reasons for the court's uncertainty. The appellate courts are not required to provide hearings.

#### *Reconsideration and Recovery of Initially Waived Fees and Costs*

The fee waiver statutes specify the times and reasons why a court may reconsider a waiver after it has been granted, limiting reconsideration to once very six months. (§ 68636.) The statutes include new procedures for collecting fees in cases where an initial fee waiver has been granted and subsequent events indicate



that recovery of the waived fees is appropriate. (§ 68637.) These procedures include (1) reconsidering an initial fee waiver if the court obtains information that the fee waiver should not have been granted initially or should be ended due to a change in financial circumstances, (2) requiring the court to add waived fees to a judgment in favor of a party who received an initial fee waiver (this does not apply to family law or unlawful detainer cases); (3) placing an automatic lien on any settlement, mediation, compromise, or arbitration award of \$10,000 or more in a civil case if the party collecting the recovery received a fee waiver; and (4), in family law matters, requiring the court to consider whether a party to a family law case who did not receive a fee waiver has the ability to pay the other party's fees, and/or review at the time of judgment whether changed circumstances allow a party whose fees were initially waived to pay all or part of the waived fees.

Finally, the fee waiver statutes require a person who is requesting that the court enter a satisfaction of the judgment include a declaration that any order requiring payment of waived fees and costs has been satisfied. (§ 68637(b).) When there has been a recovery of \$10,000 or more by settlement or other means in a civil case, the party requesting dismissal must include a declaration that the court lien has been paid. If the request is filed without a declaration, the court may refuse to dismiss the case. (§ 68637(c).)

#### *Proposed Implementation*

To implement the provisions of the fee waiver statutes, the civil rules and the appellate rules will be amended and the current set of fee waiver forms revised and expanded. Five of the six current fee waiver forms will be revised, one revoked, and six new fee waiver forms added for use in the trial court, all in plain language format. Three new family law forms will be added to implement the new provisions directed to recovery of initially waived fees in family law cases. Several current civil forms, the *Request for Dismissal* (form CIV-110) and seven civil *Summons* forms (forms SUM-100, SUM-110, SUM-120, SUM-130, SUM-140, SUM 145, and FL-110), will be revised to add mandated notices regarding recovery of the initially waived fees. In addition, two new fee waiver forms will be added for use in the appellate courts, and two current appellate court forms revised to reference the new provisions.

#### Summary of Superior Court Fee Waiver Rules and Forms

##### *Rules to Be Repealed*<sup>4</sup>

Under the proposal, most of the existing rules in division 2 (Fee Waivers) of title 3 (Civil Rules) will be repealed because they duplicate or have been replaced by provisions contained in the new fee waiver statutes. The following rules will be

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<sup>4</sup> The proposed amendments to the civil rules begin at page 35.

repealed:

- Rule 3.51(b) (prohibiting courts from requiring forms other than Judicial Council forms), now in section 68634(b) and (c);
- Rule 3.52(a) (mandatory eligibility), now in section 68632(a) and (b);
- Rule 3.52(b) (discretionary eligibility and lien on recovery), now in sections 68632(c) (regarding eligibility) and 68637 (regarding liens on recovered moneys);
- Rule 3.53 (verification of financial condition), to the extent it is still authorized by statute, replaced by sections 68634(e) (for trial court) and 68634.5(e) (for appellate court), which set forth the various circumstances under which hearings and evidence of eligibility may be required;
- Rule 3.54 (determination without regard to pleadings), now in sections 68634(c) (for trial court) and 68634.5(c) (for appellate court);
- Rule 3.55 (effect of denial and payment of fees), now in sections 68634(g) (for trial court) and 68634.5(g) (for appellate court);
- Rule 3.56(3) (requiring statement of reason for denial), now in sections 68634(e)(2), (3), and (5) (for trial court), and section 68634.5(e)(2), (3), and (4) (for appellate court);
- Rule 3.56(4) (requiring service of notice of denial), replaced by sections 68634(e) (for trial court) and 68634.5(e) (for appellate court), which provide that the court is to give notice of hearings and decisions to the applicant or the applicant's attorney. The requirement that notice of denial must be given to other parties who have appeared has been eliminated;
- Rule 3.56(5) (permitting delegation of authority to grant waiver), now in sections 68634(d) (for trial court) and 68634.5(d) (for appellate court);
- Rule 3.58(a) (notice of hearing), replaced by sections 68634(e) (for trial court) and 68634.5(e) (for appellate court), which set forth the various circumstances under which hearings are required;
- Rule 3.58(b) (confidentiality of hearing), now in section 68633; and
- Rule 3.59 (changed circumstances after granting waiver), replaced by section 68636, which sets forth the various circumstances under which the court may reconsider a grant of an initial fee waiver.

#### *New and Amended Rules*

When the preceding rules on fee waivers are repealed, all the rules remaining after rule 3.51 will be renumbered. In addition, the remaining rules will be revised and further rules included, as follows.

First, the wording of all the rules will be revised to reflect the change in terminology in the statute, by replacing the phrase “in forma pauperis” with

“initial waiver of court fees and costs” or “initial fee waiver.”<sup>5</sup> Rule 3.50 will be amended to clarify that any such waiver is not a permanent waiver of fees and costs, but merely an initial one, subject to later retroactive withdrawal, termination, or modification. In addition, reference to mandatory Judicial Council forms will be revised to reflect the titles of new forms.

Second, while proposed rule 3.52 will continue to mandate that courts use Judicial Council forms for orders on fee waiver requests, a temporary exception will be added to allow a court with computerized case management systems to create order forms on that system, so long as the order is substantively the same as the mandatory Judicial Council form order it is replacing. This rule will also be amended to require that a court provide a blank copy of forms with certain orders.<sup>6</sup>

Third, proposed rule 3.54 will be amended to include procedures (use of a noticed motion with a showing of good cause) for obtaining access to the confidential financial information included in fee waiver applications. (§ 68633(d).) The court is expressly authorized to limit use of the information should access be permitted.

Fourth, proposed rule 3.55 will be amended to clarify the fees that are automatically included in any fee waiver that is granted. In particular, rule 3.55(6) and (8) will be amended to correct and update the statutory references to sheriff’s and marshal’s fees and fees for telephone appearances. Rule 3.55(9) will be amended to clarify which fees relating to a clerk’s transcript on appeal are included in a waiver.

Finally, new rule 3.57 (amount of lien for waived fees and costs) will be added to provide that a party may ask the court to calculate the total amount of fees and costs that have been waived in a case, so that a party subject to a court lien for the waived amount may determine what that amount is. (§ 68637(c)(3).)

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<sup>5</sup> The term “initial” fee waiver is used in the statute because, under sections 68630 and following, any such waiver may later be modified, terminated, or retroactively withdrawn if the court determines that the applicant was not or is no longer eligible for a waiver. See section 68631 and rule 3.50.

<sup>6</sup> With any order granting a fee waiver, a court is to provide a blank reporting form (proposed form FW-010) on which the party can report any improvements in financial circumstances that could affect the party’s ability to pay fees. With any order denying a fee waiver request for which the party must be given opportunity for a hearing (§ 68634(e)(3)), a court is to provide a blank copy of a request for hearing form (proposed form FW-006).

### *Superior Court Forms*<sup>7</sup>

In addition to revising the fee waiver forms to reflect changes in the law, the committees recommend that the current forms be revised and the new forms be produced in the plain language format that has proven successful in other areas in which self-represented litigants predominate.<sup>8</sup> This format includes, when possible, using direct address pronouns (such as *you* and *your*) to make the text easier for self-represented litigants to understand. The form numbers and titles<sup>9</sup> are prominently displayed in the upper left hand corner of the forms. The footer includes reference to the California Courts Website to help users find information about the courts and self-help centers. The typeface is in a larger and more readable font than used in the traditional forms. There are ruled lines to facilitate hand-written completion of the forms.<sup>10</sup>

A description of and rationale for recommending each proposed new form or revision is set forth below.

*Request to Waive Court Fees* (form FW-001). The committees recommend that this mandatory application form be revised so that it may be used when an applicant applies for a waiver of either superior court or appellate court fees and costs. This application form will be used by all three categories of fee waiver applicants, those who are (1) receiving public benefits, (2) low-income (125% of the federal poverty guidelines), or (3) unable to pay court fees without using moneys to pay for the necessities of life. Personal identifiers and requirements for attaching supporting benefits documentation have been eliminated from the form as they are no longer required or allowed. (§ 68633(a).) The list of qualifying public benefits programs for category 1 applicants and a chart showing the qualifying gross monthly household income for category 2 applicants have been moved to this form from the current information (INFO) sheet, in order to make it clearer to the applicant and the court the factual basis for the applicant's assertion that he or she is eligible for a fee waiver.

The financial information sheet (page 2) remains essentially the same as in the

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<sup>7</sup> The proposed new and amended Fee Waiver forms begin at page 56.

<sup>8</sup> The committees except from this recommendation for plain language format the family law forms in the proposal (forms FL-110, FL-336, FL-337, and FL-338) and the summons and request for dismissal forms because those forms are part of existing form groups that have not been converted to plain language.

<sup>9</sup> The titles of current forms have been modified where appropriate and reflect the plain language text.

<sup>10</sup> The electronic versions of the forms will not have the ruled lines.

current form.

Important notices have been added to the recommended form, including a notice of the court's statutory lien on settlement proceeds of \$10,000 or more in civil cases (§ 68637(c)), the party's duty to tell the court of improved financial circumstances (§ 68636), the court's authority to order a hearing and ask questions (§§ 68634(e) and 68636), and the court's authority to collect waived fees under specified circumstances at the end of the case (§ 68637).

*Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO). The list of qualifying financial benefits programs for category 1 applicants and the chart showing the qualifying gross monthly household incomes for category 2 applicants have been moved to the proposed revised application form (form FW-001). The form still contains information as to what fees a party may ask the court to waive, and how to do so. The committees recommend that the rest of the form be revised to include notices and warning to applicants about their responsibilities under the new statutes, including a statement that the court may require further information and evidence, that a fee waiver recipient must tell the court of changed financial circumstances, that a fee waiver recipient may later be required to pay the waived fees under certain circumstances, that a court can take action to collect such fees if the party fails to pay them, and the length of the term of the fee waiver.

*Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The committees recommend that notice provisions required by the fee waiver statutes be added to this mandatory form. The notice box on this form (and the identical notice box on several other forms) was modified following circulation in light of comments received and further consideration by the committees.

*Order on Court Fee Waiver (Superior Court)* (form FW-003). The committees propose significant changes to this mandatory order form to reflect the provisions of the new fee waiver statutes. This form is to record the court's initial determination of a fee waiver application.

The front of the proposed form will be used to grant an application where no hearing is required, for either an initial application made on form FW-001 to waive fees listed in rule 3.55 or a request on form FW-002 to waive additional fees as permitted under rule 3.56. (See form items 4a(1) and (2).) The form also will be used by a superior court to grant or deny waiver of fees related to an appeal, such as preparation of the clerk's transcript or the filing fee for appeal of a limited jurisdiction case, in the event no fee waiver is already in existence at the trial court level. In addition, if the superior court has an arrangement with the Court of Appeal to do so, the superior court also may use this form to grant a waiver of the

fees for filing a notice of appeal to the Court of Appeal. (See form item 4(a)(3).)

The second page of the proposed form will be used when a fee waiver request is not granted. If the application is denied because it is incomplete or because the information provided conclusively establishes that the applicant is not eligible, reasons for the denial must be included on the form order by the judicial officer. (§ 68634(e)(2) and (3).) The proposed form includes spaces for these statements. (See form items 4b(1) and (2).) The form also advises the applicant that if the fees are not paid, a revised complete application is not filed, or a hearing is not requested within ten days, the papers filed with the request will not be processed and any appeal may be dismissed.

If the application is not granted and not denied for one of the two reasons above, an eligibility hearing is required (§ 68634(e)(4), (5).) The proposed form includes an item whereby the court can set that eligibility hearing. (See form item 4c.)

*Order on Application for Waiver of Additional Court Fees and Costs* (form FW-004). The committees recommend that this order form be revoked. It will be superseded by form FW-003.

*Notice: Waiver of Court Fees (Superior Court)* (form FW-005). The committees recommend that notice provisions be added to this mandatory form. No significant substantive changes have been made to the form.

*Request for Hearing About Court Fee Waiver Order (Superior Court)* (form FW-006). The committees propose that this mandatory form be adopted for use by a party to request a court hearing after an application has been denied on the ground that the information on the application establishes that the applicant is not eligible for a fee waiver. A blank copy of this application must be included with the denial order. (§ 68634(e)(3), and see proposed rule 3.52.)

*Notice on Hearing About Court Fees* (new form FW-007). The committees propose that this mandatory form be adopted for use by the court to set or deny a hearing requested on form FW-006. The form also advises the applicant that he or she may take financial information to the hearing to support the fee waiver request. (§ 68634(e)(3).)

*Order on Court Fee Waiver After Hearing (Superior Court)* (new form FW-008). The committees propose this mandatory form be adopted for use by the court to record its determination on an eligibility hearing on a fee waiver request. This order is similar to proposed *Order on Court Fee Waiver (Superior Court)* (form FW-003), except that there is no provision for setting a hearing. This form also differs in that it includes an order permitting payment of fees over time in the

event a waiver is denied, which may only be permitted after a hearing. (§ 68634(e)(5).) It contains various orders that may be issued after a hearing in discretionary category 3 unable-to-pay cases when a full fee waiver is not granted, such as waiver of a portion of all fees and costs or waiver of some specific fees and costs. (*Id.*) The form provides space for a court to enter the legislatively required written statement of reasons for denying an application in whole or in part. (*Id.*)

*Notice to Court of Improved Financial Situation or Settlement* (new form FW-010). The committees propose that this mandatory form be adopted for use by a fee waiver recipient to inform the court that financial circumstances have changed in a way that improves the party's ability to pay fees, including settlement of the case. Reporting such information is required by statute. (§ 68636(a).)

*Notice to Appear for Reconsideration of Fee Waiver* (new form FW-011). The committees recommend that this mandatory form be adopted for use by the court to set a hearing for reconsideration and include the required statement of reasons for the hearing. Under the fee waiver statutes, a court may reconsider the grant of a fee waiver when the court has information that an applicant's financial condition may have changed, at the time of the final disposition, or when the court learns that an applicant may be needlessly increasing the costs of litigation. (§ 68636(a), (b), (c), (f).)

*Order on Court Fee Waiver After Reconsideration Hearing (Superior Court)* (new form FW-012). The committees propose that this mandatory form be adopted for courts to record the outcome of a hearing to reconsider the initial waiver of fees. The court may leave the fee waiver as it was initially issued, end the waiver as of the date on which the applicant was no longer eligible, or retroactively withdraw the waiver altogether should it find the applicant was never eligible. (§ 68636(d), (e).) The court may, at its discretion, order repayment of some or all of the court fees waived when the applicant was not eligible, and may order that the repayment be made within 10 days or over some longer period of time. (*Id.*) This form may also be used to order limitations on a waiver when the court finds that the waiver being abused in some way. (§ 68636(f).)

*Request for Dismissal* (form CIV-110).<sup>11</sup> The fee waiver statutes mandate that a party filing a petition for dismissal must declare, under penalty of perjury, that the court's statutory lien has been paid or that any settlement, compromise, arbitration award, or other recovery has a value of less than \$10,000. (§ 68637(c)(4).) The committees propose revising this form to include a declaration to this effect on the

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<sup>11</sup> The proposed revised Civil and Summons forms begin at page 73.

back, along with an item on the front for a party to indicate that a fee waiver exists in the case.

Revised *Summons* forms: The notice of the court's lien on settlements or arbitration awards over \$10,000 in civil cases will be provided to fee waiver recipients on fee waiver application forms (forms FW-001 and FW-002) and fee waiver orders (form FW-003, FW-005, and FW-008). The committees propose revisions to the summons forms to provide notice of the court's lien to defendants who are not fee waiver recipients, via new text added to each form.<sup>12</sup>

### *Family Law Forms*<sup>13</sup>

*Order to Pay Waived Court Fees and Costs (Superior Court)* (form FL-336). The committees recommend that the Judicial Council adopt FL-336 as a mandatory form to comply with Government Code sections 68637(d) and (e). This statute permits the trial court, after entry of a judgment or family law order to pay support, to recover previously waived court fees from either the initial fee-waiver recipient or the other party. This proposed form will be completed by the court and served on the party ordered to pay previously waived fees under the statute. The form will provide information as to the amount due to the court, when the payment is due, and where to send the payment. This form will also include a notice that the party has an opportunity to request a hearing to set aside the order, inform the party as to how to request a hearing, and include the statutory time frame for requesting the hearing.

*Application to Set Aside Order to Pay Waived Court Fees—Attachment* (form FL-337). This form is recommended as the mandatory form to be attached to a *Notice of Motion* (form FL-301) or *Order to Show Cause* (Form FL-300), for use by the party requesting a hearing to set aside the order to pay waived court fees. It will include a space for the party to write a declaration in support of the request to set aside the order and repeat the notice and information on how to request a hearing that is included in the above order.

*Order After Hearing on Motion to Set Aside Order to Pay Waived Court Fees* (form FL-338). This form will serve as the mandatory form to record the outcome of the hearing on payment-waived court fees.

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<sup>12</sup> *Summons* (form SUM-100), *Summons—Cross-Complaint* (form SUM-110), *Summons (Joint Debtor)* (form SUM-120), *Summons (Unlawful Detainer –Eviction)* (form SUM-130), *Summons—Storage Lien Enforcement* (form SUM-140), and *Summons—Enforcement of State Housing Law* (form SUM-145) will all be revised to include the notice in English and Spanish.

<sup>13</sup> The proposed new and revised Family Law forms begin at page 82.



*Summons (Family Law)* (form FL-110). This form will be revised to comply with the statutory mandate to include a notice to the parties that the family court may order either party to pay previously waived court fees and that the party ordered to pay will be notified and given an opportunity to request a hearing on the matter.

### Summary of Appellate Court Rules and Forms

#### *Background*

In recognition of the different nature of appellate and trial courts and more limited court fees and costs in appellate proceedings, the new fee waiver statutes make several important distinctions between fee waivers in the trial courts and in the appellate courts.<sup>14</sup> First, there is a separate provision, Government Code section 68634.5, that establishes the requirements for processing and determining fee waiver applications in the appellate courts. Under this provision, unlike in the trial court, an applicant does not have the right to request a hearing concerning a fee waiver determination. Instead, if the court concludes that there is a substantial evidentiary question regarding the applicant's eligibility, the court *may*, in its discretion, set a hearing. Second, unlike in statutes applicable to the trial courts, section 68634.5 does not provide for partial payment of court fees and does not specify that the clerk shall void the papers that were filed if the court fees and costs are not paid as ordered by the court. Instead, this section provides that if a fee waiver application is denied, the applicant is required to pay the court fees and costs that ordinarily would be charged and that the clerk is required to notify the applicant of the consequences for failure to pay the court fees. Finally, the new statutes make clear that the provisions in section 68635, concerning collection of fees from incarcerated litigants, and section 68637, concerning dismissals and liens when a party whose fees were waived prevails or recovers \$10,000 or more, apply only in the trial courts.

Both because of the different procedures established by the new fee waiver statutes and because the court fees that may be waived in appellate proceedings are much more limited than in trial court proceedings, the committees are proposing separate rules and a separate information sheet and fee waiver order form specifically addressing fee waivers in the appellate courts.

#### *New Appellate Fee Waiver Rules<sup>15</sup>*

Currently, there are no separate rules addressing fee waivers in the appellate courts. The rules for civil appeals in both the Court of Appeal and superior court

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<sup>14</sup> Note that in specifying the application of particular provisions, the new statutes use the terms "trial court" and "appellate court," not superior court and Court of Appeal. As used in the fee waiver statutes term "appellate court" appears to encompass the superior court appellate division.

<sup>15</sup> The proposed amended appellate rules begin at page 44.

appellate division currently contain cross-references to the trial court fee waiver rules. The committees propose the adoption of new rule 8.26 setting out the requirements applicable to fee waivers in the Supreme Court and Courts of Appeal and new rule 8.818 setting out the requirements applicable to fee waivers in the superior court appellate division. The current cross-references to the trial court fee waiver rules in the rules for civil appeals will be replaced with cross-references to these new rules. The committees determined that this will make the applicable provisions easier for litigants, particularly self-represented litigants, to find and to understand.

As in the amended trial court rules being proposed, the proposed new appellate court fee-waiver rules address applications for fee waivers (rules 8.26(a) and 8.818(a), in the Court of Appeal and appellate division rules, respectively), the procedure for determining applications (rules 8.26(c) and 8.818(b)), the automatic grant of fee waivers if the court does not act on an application within five days (rules 8.26(d) and 8.818(c)), what fees that are waived (rules 8.26(e) and 8.818(d)), and the confidentiality of fee waiver applications submitted to the court (rules 8.26(g) and 8.818(f)). Unlike the trial court rules, however, these proposed appellate rules do not contain provisions addressing the waiver of additional fees (rule 3.56), liens for waived fees (rule 3.57), or posting notice (rule 3.58). The proposed appellate rules also differ from the trial court rules in other ways. For example, the provisions regarding the procedure for determining applications (rules 8.26(c) and 8.818(b)) refer to the statutory provision establishing the procedures for appellate courts, Government Code section 68634.5, not the statutory provisions applicable to trial courts. Similarly, the rules identifying the fees and costs that are waived if an application is granted list only those fees and costs applicable in appeals and writ proceedings: the fees for filing a notice of appeal, petition for a writ, or a petition for review. Finally, unlike the trial court rules, the appellate rules contain provisions addressing where and when a request for a fee waiver should be filed (rules 8.26(b)) and 8.818(a)) and the time an applicant has to pay fees when the court denies a fee waiver (rules 8.26(f)) and 8.818(e)).

#### *New Appellate Court Fee Waiver Forms*<sup>16</sup>

As discussed above, the committees propose a revised fee waiver application form, *Request to Waive Court Fees* (form FW-001), for use in applying for a waiver of either superior court or appellate court fees and costs. The committees also propose two new forms relating exclusively to appellate court fee waivers.

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<sup>16</sup> The proposed new and revised appellate forms begin at page 89.

*Information Sheet on Waiver of Fees and Costs (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO). This form provides litigants in proceedings in the Supreme Court, Courts of Appeal, and superior court appellate division with information about fee waivers, including who qualifies for a fee waiver, what fees and costs the court will waive, and how to request a fee waiver in different types of appellate proceedings. Among other things, this form explains how in an appeal, the appellant can request waiver of both the appellate court fee for filing a notice and the trial court fees for preparing, copying, and sending the clerk's transcript and that, in an appeal to the Court of Appeal, the court may request two signed copies of the fee waiver application. In addition, the form explains what happens in an appeal if the applicant has a fee waiver from the superior court that is still in effect. Like the trial court information sheet, this form contains important notices and warnings to applicants about their responsibilities under the new statutes.

*Order on Court Fee Waiver (Court of Appeal or Supreme Court)* (form APP-016/FW-016). In order to reflect the distinct statutory procedures for determining fee waivers in the appellate courts, the committees propose a separate order form for use in the Supreme Court and Court of Appeal. This proposed order form differs in several respects from the superior court order form. For example, the Court of Appeal order form does not include references to an applicant requesting a hearing about a fee waiver determination, and it includes different warning boxes that do not reflect the lien provisions applicable in the trial courts.

#### Alternatives Considered

Assembly Bill 2448 mandates that the Judicial Council adopt rules and forms to establish uniform procedures to implement the fee waiver statutes by July 1, 2009. (§ 68641.) Hence the alternative of not proceeding was not considered.

The committees discussed amending the current rules to reflect the provisions now in the fee waiver statutes, rather than recommending deleting such rules. The committees concluded that, on the whole, it was better practice to not duplicate in the rules provisions that are in the statute.

The committees considered developing some additional rules and forms contemplated but not immediately mandated by the statute, particularly in regards to prisoner applicants and to payment of fees over time. The committees concluded that, in light of the shortened time frame in which the new forms and rules needed to be developed, they would defer consideration of these rules and forms to a future rules cycle.

### Comments From Interested Parties

The proposal was circulated during the winter 2009 cycle, from December 12, 2008 to January 21, 2009, to the regular rules and forms mailing list and to the standard mailing list for family and juvenile proposals. Included on the lists are presiding judges, court executive officers, legal aid groups, attorneys, mediators, social workers, and other family professionals, such as family court services, directors, managers, supervisors, and staff. Twenty-one sets of comments were received, some quite detailed. Commentators include individual attorneys and court administrators; several legal aid organizations, including Public Counsel Law Center and Legal Aid Foundation of Los Angeles commenting on behalf of itself and four other legal aid groups; the Committee on the Administration of Justice and the Standing Committee on the Delivery of Legal Services of the State Bar; the Superior Courts of Fresno, Kern, Kings, Los Angeles, Orange, Sacramento, San Bernardino, San Diego, and San Mateo Counties; the Trial Court Presiding Judges Advisory Committee/Court Executive Advisory Committee (TCPJAC/CEAC) Joint Rules Working Group; and the California Appellate Clerks Association. All comments are set forth in the comments chart attached to this report, along with the committees' responses.<sup>17</sup> Most of the comments were very detailed, each addressing several different rules and forms. The comments have been placed in the chart under the heading of the specific rule or form addressed by the comment.

The major issues raised by the commentators, many in response to specific questions included in the invitation to comment follow.

### Comments on Superior Court Rules and Forms

#### *Rule 3.52. Mandatory Use of Judicial Council Order Forms*

Current rule 3.56 mandates that the order determining an application for a fee waiver be on a Judicial Council form. The committees specifically invited comments on whether that mandate should continue under all circumstances or whether an exception should be made for courts with electronic case management systems. Nine commentators responded.

Four commentators are opposed to the exception. The Legal Aid Foundation of Los Angeles (commenting for itself and on behalf of several other legal aid organizations) expressed the view that court-produced forms might not be as understandable to litigants as forms developed and vetted through the Judicial Council process. The Standing Committee on Delivery of Legal Services expressed concern over confusion arising from inconsistency in court-produced orders, with self-represented litigants potentially subject to different orders that

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<sup>17</sup> The comment chart begins on page 112.

essentially mean the same thing. The Committee on the Administration of Justice also opposed the exception on the basis of lack of uniformity and noted that such uniformity helps with indexing and locating documents in the courts files. The Superior Court of San Mateo County opposed the exception because it believes that any court with an electronic case management system should be able to replicate the Judicial Council form using that system.

Five courts supported the exception. The committees agree with these courts and recommend that, at least for the years while CCMS is being developed, courts with computerized case management systems be permitted to create their own fee waiver orders, so long as the orders contain all the substantive provisions on the Judicial Council form being replaced. The committees recommend that the exception be permitted only until January 1, 2013, at which point CCMS should be available to courts and capable of generating forms that replicate Judicial Council forms. (See rule 3.52(6).)<sup>18</sup>

*Rule 3.54. Access to Confidential Financial Information.*

The new fee waiver statutes mandate that the financial information provided by an applicant be kept confidential by the court.<sup>19</sup> The statute mandates that the Judicial Council develop procedures to keep the information confidential and to consider a request seeking that confidential information. Proposed rule 3.54 provides that a court may only allow access to the information following a determination by a judicial officer of good cause for access, following a noticed motion.

Specific comments were invited on whether the proposed rule should include more detailed standards for determining whether the confidential information be released and provisions limiting the use of such information upon release. Legal aid groups objected that no access should be permitted at all, so no standard need be developed and the proposed rule 3.54 should be deleted. The committees disagree, in light of the legislative mandate to provide procedures for access. (§ 68633(d).) Two commentators believe that a more specific standard than good cause is appropriate, to guide the courts and the litigants, but did not propose what form such standard should take. The Superior Court of Los Angeles and San Bernardino Counties, and the TCPJAC/CEOAC Joint Rules Committee all agree that the good cause standard is sufficient. The committees agree and concluded that the proposed good cause standard is flexible enough to be applied in the wide variety of circumstances that might be presented to a court. The rule that was

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<sup>18</sup> In light of this recommendation, the committees also recommend amending rule 1.31, the general civil rule regarding mandatory forms, to add this exception to the list contained therein.

<sup>19</sup> No person may have access to the application except the “court, authorized court personnel, and any person authorized by the applicant.” (§ 68633(d).)

circulated has been modified in light of comments to expressly authorize the court to place limitations on any order permitting access.

Specific comments were also invited on whether the “court personnel” who are permitted access to the financial information in proposed rule 3.54 should be defined for the purpose of this rule to include individuals or agencies under contract with a court to recover court fees and costs that were initially waived but later ordered paid by the court. These comments were sought in light of concerns expressed by a member of the Judicial Council’s Rules and Projects Committee prior to circulation of the proposal that the requirement of a noticed motion to permit anyone other than authorized court personnel to gain access to the information would burden those courts try to recover waived fees not through court personnel, but through contracted collections specialists, either county employees or private vendors. By including such contractors within the definition of “authorized court personnel,” they could be allowed access to information about the employers, bank accounts, and other assets, if any, of the parties from whom the court wanted to recover fees, without being required to file a motion or provide notice to the parties whose information is being accessed.

The legal aid groups represented by the Legal Aid Foundation of Los Angeles objected to such access, on the grounds that use of the financial information on the application for any purpose other than ruling on the application or reconsideration of such ruling is inappropriate and violates the applicant’s right to privacy.

Commentators Superior Court of San Mateo County and the Committee on Administration of Justice do not take a position on whether contractors should be permitted access, but only seek a clear definition of who does have access. The committees believe the statute is clear on this point.

Two commentators, including one court, stated that a definition of court personnel including contractors should be added to this rule. Two other courts disagreed. The Superior Court of Los Angeles County does not want the rule to define contractors as court personnel because they are not—but that court appears to believe it may provide them with the information in any event. Superior Court of Orange County asserted that a broader rule is needed, rather than one limited to fee waivers, in order to allow courts to share confidential information from a variety of cases with contractors handling collections for the courts.

The committees concluded that expanding this rule to provide access to individuals outside the immediate control of the court by including them in a definition of court personnel would be contrary to the intent of the statute. At the same time, the committees recognize that it may be possible and appropriate to develop access and oversight procedures that would permit courts to use

contractors effectively for collection efforts, permitting them access to information in court files without inappropriately infringing on privacy rights of parties. This issue goes beyond the scope of the fee waiver procedures, however, and concerns all court collection efforts. Therefore, the committees have not broadened the scope of the rule to address such access, but are referring the concerns to the AOC's Enhanced Collections Unit, a unit established to assist courts and counties in their joint effort to develop collections programs that enforce the rule of law, as well as increasing trust and confidence in the justice system.

*Rules 3.55 and 3.56. Addition of Family Court Investigator Fees to List of Waived Fees and Costs*

The committees received a total of eight comments in response to the question in the Invitation to Comment of whether fees for family law court investigators should be added to the list of waived fees in new rule 3.55 or discretionarily waived fees in new rule 3.56. Five commentators favored adding these as mandatorily waived fees under rule 3.55. The other commentators stated that these fees, if added, should be at the discretion of the court. One commentator noted that court investigator fees are normally used in probate matters, not family matters.

The committees recommend that the Judicial Council refrain from adding fees for family law court investigators to either rule 3.55 or 3.56 at this time. The commentators raised important questions on this topic which should be considered before making substantive changes to either rule. For example, additional consideration should be given to amending these rules to include other fees, instead of being limited to fees in this one specific category.<sup>20</sup> Such discussion should include examining the impact on the cost to the courts. As to waiving "family court investigator fees" under either rule, the issue arises of how to define a family court investigator. How this term is defined directly relates to the costs of the services to the court. For example, in some counties, mediators are "family court investigators." In other counties, investigators are private or court-connected child custody evaluators. Given the complexity of making substantive changes to these rules, and in light of the shortened comment period in this cycle, the committees will consider any further amendment to these rules in a future cycle.

*Single Fee Waiver Application Form for All Courts (Forms FW-001 and [Proposed] APP-015/FW-015)*

As circulated for comment, the proposal included separate application forms for requesting waiver of fees in the superior court (form FW-001) and in the Court of

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<sup>20</sup> Several commentators suggested adding interpreter's fees and court investigator fees in probate matters to the list of waived fees in these rules. In addition, a question has been raised outside the Invitation to Comment process as to whether additional filing fees permitted under rule 10.815(b) for fax filings are or should be included in the waived fees.

Appeal (form APP-015/FW-015). Most of the material on the proposed appellate application form was substantially the same as on form FW-001. The main differences were that the appellate form had a box for the Court of Appeal case number, referred users to the appellate fee waiver information sheet rather than the trial court information sheet, and did not include information about court liens for waived fees on settlements or awards. Given the similarity in the two application forms, the committees specifically invited comments on whether there should be a separate request form for appeals and writ proceedings in the appellate courts or a single form that could be used for all fee waiver requests.

Nine commentators responded to this question. Five commentators, including Joseph Lane, clerk of the Court of Appeal, Second Appellate District,<sup>21</sup> the Legal Aid Foundation of Los Angeles and several other legal aid organizations, Public Counsel, and Superior Court of Orange County agreed that there should be a single form. These commentators generally expressed the view that it would be easier and less confusing for litigants if there was only one application form for use in all courts. Four commentators, including the California Appellate Clerk's Association and the State Bar of California's Committee on the Administration of Justice, expressed a preference for a separate application form for the appellate courts. These commentators expressed concerns that the differences in fee waiver procedures in the trial and appellate courts are such that it would be difficult to create a user-friendly form that could be used in all courts. The committees determined that these concerns can be met and have modified form FW-001 so that it may be used to request waiver of fees and costs charged by a superior court or those charged by the Supreme Court, Court of Appeal, or appellate division of the superior court.

*Consequences of Denial and Time for Applicant to Respond (Forms FW-003, FW-008, and APP-016/FW-016)*

The new fee waiver statutes include provisions concerning the consequences of the denial of a fee waiver application.<sup>22</sup> Because the statutes already cover this, the

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<sup>21</sup> Mr. Lane provided comments in his individual capacity and as representative of the California Appellate Court Clerks Association. When, as here, he made them in his individual capacity, the commentator is identified by name. Where he made them on behalf of the association, the association is identified.

<sup>22</sup> Section 68634(g) provides: "If an application is denied in whole or in part, the applicant shall pay the court fees and costs that ordinarily would be charged, or make the partial payment as ordered by the court, within 10 days after the clerk gives notice of the denial, unless within that time the applicant submits a new application or requests a hearing under subdivision (e). If the applicant does not pay on time, the clerk shall void the papers that were filed without payment of the court fees and costs." [emphasis added] There is a similar provision applicable to appellate courts. (§§ 68634(g) and 68634.5)



proposed civil rules do not address the consequences of the denial. This is consistent with normal rule drafting practice not to repeat statutory provisions in the Rules of Court.<sup>23</sup> In light of the large number of self-represented litigants who request fee waivers, however, the fee waiver order forms circulated for comment—forms FW-003, FW-008, and APP-016/FW-016—each included text advising the applicant that certain actions (either submitting a new revised application, requesting a hearing, or paying the fees and costs) had to take place within a specific time frame following a denial to avoid the statutory consequences.

The forms circulated for comment indicated that the applicant had 15 days from the date the order denying the request was mailed/sent to respond rather than the 10 days specified in the fee waiver statute. (The trial court forms also indicated that the applicant had 10 days in which to act if the notice was hand-delivered.) The 15-day period indicated in these forms was based on adding the 10-day period in the fee waiver statutes and the 5-day extension of time provided under Code of Civil Procedure, section 1013 following service by mail within California.

Both the California Appellate Clerk’s Association and Joseph Lane suggested in their comments that, in light of the 10-day period specified by the fee waiver statute, the period specified on the appellate order form should be 10 days, not 15 days. The same considerations apply to the trial court orders. The commentators assert that Code of Civil Procedure, section 1013 does not apply under the fee waiver statute because the time for the applicant to act is triggered when “the clerk gives notice of the denial;” the statute does not specifically provide either for serving or mailing this notice. One commentator also suggested that even if section 1013 applies, the 5 days should not be included in the time specified on the form as this would result in form users being entitled under section 1013 to add yet another 5 days to the time specified on the form.

The committees concluded that there is no consistent message from the cases under Code of Civil Procedure section 1013, and none directly on point. Cases

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<sup>23</sup> The proposed appellate rules differ somewhat from the trial rules. The Appellate Advisory Committee recommends that the statutory provisions regarding consequences for failure to act after denial be included in those rules. See proposed rule 8.26(f) and discussion *infra*. In the trial courts, the statutorily-permitted acts that may be taken following denial include more options than in the appellate courts, including the right to request a hearing in some circumstances. (Compare § 68634(g) and § 68634.5(g).) The Civil and Small Claims and Family Juvenile Law Advisory Committees recommend not duplicating in the civil rules the more detailed provisions outlined in the statute pertaining to trial courts. The committees note that the first proposed civil fee waiver rule (rule 3.50) identifies the statutes that litigants should look to for the fee waiver provisions.

have held that where a prescribed time period is triggered by the term “service” of a notice, document, or request, then section 1013 will extend the period, but where a prescribed time period is commenced by some circumstance, act or occurrence other than service, then section 1013 will not apply. (See, e.g., *Camper v. Workers’ Comp. Appeals Bd.* (1992) 3 Cal.4th 679, 684–85.<sup>24</sup>) Because under the fee waiver statutes, the triggering event is the clerk’s giving notice, not the service or mailing of notice, the extension of time under section 1013 may not apply here. The committees concluded that application of the 5-day extension for mailing should not be made part of the recommended forms. The committees have therefore modified the language in proposed form FW-003 (in items 4b(1) and (2)), form FW-008 (in the warning box at the bottom of page 2 of the form),<sup>25</sup> and form FW-016 (item 4b(1)-(3)) to track the statutory language and indicate that acts must be done within 10 days of when the clerk gives notice to avoid further consequences.<sup>26</sup>

*Notice of Improved Financial Situation or Settlement (Form FW-010)*

Specific comments were sought on whether the information regarding a settlement should be included on this form. Several commentators, including two courts, thought it should be. The Committee on Administration of Justice split on this question.<sup>27</sup> Some members favored including settlement information and stated that the form would help to ensure that the court is timely informed of a settlement and can act to ensure that appropriate parties are aware of and pay any lien. Others

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<sup>24</sup> In that case, the Supreme Court held that where the triggering event was the denial of a petition, it was the filing of the order denying the petition, not the service of that order, that was the trigger, and hence the section 1013 extension did not apply. The Court also noted, however, that in circumstances where the trigger by its nature required service on a party, such as “making” a settlement offer under Code of Civil Procedure section 998, section 1013 applies because the trigger necessarily included service. *Id.* at 686.

<sup>25</sup> Additional modification were made to forms FW-003 and FW-008 in response to suggestions from commentators on form APP-016/FW-016, restructuring and condensing the forms to more clearly list the three actions the court may take in response to a fee waiver application (grant, deny, or order a hearing) and to consolidate the warning boxes relating to denials into a single box.

<sup>26</sup> A similar modification has been made to family law form *Order to Pay Waived Court Fee and Costs (Superior Court)* (form FL-336, (at item 3(b))) and to the *Notice on Hearing About Court Fees* (form FW-004, at item, 5a).

<sup>27</sup> That group also commented that settlement information was not required by statute to be reported to the court within five days, and so the notice box should not state that is. In order to clarify the applicable requirements, the text in the notice box has been modified to track the language of the statutory reporting requirement.

commented that the settlement information in the form would be duplicative of the information in the revised request for dismissal form, which ordinarily would be filed at or about the same time, and that the form should not require the settlement information absent a statute or a rule requiring such information. The Legal Aid Foundation of Los Angeles agreed with the latter group, asserting that the settlement information was unnecessary on this form, particularly in light of the information required on the *Request for Dismissal* (form CIV-110). The Foundation also stated that the items on this form are over-simplified, in that a settlement could include terms that do not include payment of money.

The committees concluded that the item for settlement information should remain on the form. Receipt or the promised payment of moneys in a settlement represents a change of circumstance that could affect a party's ability to pay fees, and thus comprise a reportable event. Including it on this form provides an easy way for an applicant to inform the court.

*Summons (Family Law) (Form FL-110)*

Several commentators addressed the proposed revisions to this form. One commentator stated that there is no real need to amend the form with the new language noting the court's ability to order a party to pay previously waived court fees. This commentator stated, "(t)aking away the boldface type of the important notices about the limited time to answer and how to get assistance will be extremely harmful to unsophisticated litigants." The committees respectfully disagree and believe that the information is needed on the summons to provide notice to a respondent who might otherwise have no knowledge that he or she may be ordered to pay his or her own, or the petitioner's waived court fees.

Another commentator stated, "the notice on the family law summons appears to be sufficient to notify the parties that they could have to pay the fees, but could include a reference to the code section that addresses the statutory language regarding preference on support and arrears over waived costs and fees." The committees agree and have added a reference to Government Code section 68637.

*Order to Pay Waived Court Fees and Costs (Superior Court)(Form FL-336)*

Three commentators addressed the issue raised in the invitation to comment about whether and how best to include the statutory language that provides that payment of waived court fees is due only after all current support and all accrued arrears owed by a party have been paid. The form was circulated with this language in item 3a following a check box. The court could check the box if ordering a party (a support obligor) to pay the other party's waived court fees. The box would not be checked if the court ordered the fee waiver recipient to pay his or her own waived court fees.

One commentator stated that the check box was sufficient. Another stated that the language should be included but as part of the first sentence, not as a separate item. The other commentator noted that “it may be advisable to include the statutory language.” The committees agreed to keep the proposed statutory language in the form. However, instead of having a check box precede the language, the committees have included the language as part of the court order directing when payment of the previously waived court fees must be made. The language appears in item 3b. as follows: “The court orders: [b.] payment be made: (3) After all current support and accrued support arrears have been made (if ordered to pay the other party’s waived court fees).”

Other commentators addressed concerns about the form’s format and other items on the form. One commentator stated that this form should use the same plain language format as in the FW series of forms. This commentator also suggested that the form be revised to indicate that it is a court-prepared form. Another commentator stated, “item 1.e. should be rephrased, eliminated, or mirrored to be consistent with the proposed FW order forms.”

In response to these commentators, respectively, the committees (1) recommended that the family law fee waiver forms should remain consistent with the existing format as the other forms in the FL series and not be changed as proposed; (2) recommended that the title of this form be changed to *Order to Pay Waived Court Fees and Costs (Superior Court)* to indicate that the form is prepared by the court, and (3) concluded that item 1 should not be changed, but remain as currently proposed to be consistent with the existing family law order forms.

Finally, a commentator asked whether the trial court would be able to recover previously waived court fees from a support order initiated by the Department of Child Support Services in those cases. The response is that the trial court would not be able to recover in such a case. Under Government Code sections 68637(d) and (e), the court does not recover previously waived court fees from any support order. The court reviews a “judgment or order to pay support entered in a family law case” and, “based on the information in the court file,” determines whether to issue an order for payment of court fees. Further, unlike other proceedings, the collection of any fees in a title IV-D case relating to parentage or support issues is prohibited by statute under Government Code section 70672.

#### *Application to Set Aside Order to Pay Waived Court Fees—Attachment (Form FL-337)*

There was one comment about this form. The commentator stated, that requiring that this form be attached to an order to show cause or notice of motion form would be burdensome to the parties. The commentator suggested using the format of form FL-450 (*Request for Hearings on Wage Assignments*) in which the party

completes one section and the clerk's office uses the other section to set the hearing and complete certificate of mailing.

The committees respectfully disagree with this comment. To assist with integrating forms in computerized case management systems, forms are being proposed for completion by parties or completion by courts. For technological reasons, court systems may not be able to support a form that is required to be completed by a litigant and court personnel. Hence, the committee determined that proposed FL-337 should remain as an attachment to a notice of motion or order to show cause, which has a section for a hearing date that is completed by the court or court personnel.

*Order After Hearing on Motion to Set Aside Order to Pay Waived Court Fees (Superior Court) (Form FL-338)*

One commentator addressed the proposed new form FL-338 and proposed that the plain language format be used. The commentator also suggested including some indication that the form is prepared by the court, not by the litigants.

The committees disagreed with the commentator regarding the format of this form and recommend that the family law fee waiver forms should remain consistent with the current format of the other forms in the FL series. The committees agreed to change the title of the form to *Order After Hearing on Motion to Set Aside Order to Pay Waived Court Fees and Costs (Superior Court)* to make it clear to the recipient that the court prepares this form.

Comments on Appellate Court Rules and Forms<sup>28</sup>

*Application of Appellate Rules and Forms to Writ Proceedings and Supreme Court Proceedings*

As circulated for public comment, the proposed new appellate rules on fee waivers were placed in the chapters of the rules relating to civil appeals in the Courts of Appeal and in the superior court appellate divisions. The California Appellate Clerk's Association and Joseph Lane pointed out that this placement made it unclear whether the new rule applied to writ proceedings. They also pointed out that, as drafted, neither the rules nor the forms encompassed fee waivers in the California Supreme Court. They suggested amending both the rules and forms to more clearly encompass both writ proceedings and proceedings in the Supreme Court.

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<sup>28</sup> Comments and modifications concerning whether to recommend a single fee waiver application form for use in all courts, rather than a separate application forms for the trial and appellate courts, are discussed *supra*, at page 24.

The committees agreed with this suggestion. The rule that was circulated as rule 8.102 has been renumbered as rule 8.26 and placed in chapter 1 of the Supreme Court and Court of Appeal rules, which covers general provisions applicable in all Supreme Court and Court of Appeal proceedings. A similar change was also made in the proposed appellate division rules. In the proposal circulated for comment, the appellate division fee waiver provisions were placed in rule 8.821, the rule relating to the notice of appeal in limited civil cases. In the proposal here, these provisions have been placed in a proposed new rule, rule 8.818, in Chapter 1 of the appellate division rules, which covers general provisions applicable to all appellate division proceedings. Rule 8.26 and the proposed information sheet (form APP-015/FW-015-INFO) have also been revised to include specific references to Supreme Court proceedings.

#### *Number of Fee Waiver Applications and Delegation of Authority*

The invitation to comment asked for public input about whether the appellate rules or information sheet should address the number of fee waiver request forms that must be submitted or the possible delegation of authority to the superior court to determine eligibility for waiver of Court of Appeal fees.

Five commentators addressed the question of whether the rules or information sheet should address the number of application forms that should be filed. Four of these commentators supported addressing this in the rules and forms. Based on these comments, a comment was added to rule 8.26(b) indicating that if an applicant is seeking waivers of both Court of Appeal and superior court fees, the court may ask for two signed copies of the fee waiver application form. Similar language was also added to the proposed information sheet (form APP-015/FW-015-INFO). The term “may” in these provisions is intended to convey that the courts have flexibility in this area; courts that wish to require two forms are authorized to do so, but courts that are willing to accept a single form or in which the authority to waive the Court of Appeal filing fee has been delegated to the superior court need not require two application forms.

Seven commentators responded to the question about whether the rules or information sheet should address the possible delegation of authority to rule on fee waiver requests. Six of these commentators opposed addressing this issue in the rules or information sheet. Based on these comments, no discussion of the possible delegation of this authority was added to the rules or information sheet.

#### *Rules 8.26(f) and 8.818(e)—Consequences of Denial of Fee Waiver Application*

The circulated for public comment did not include a provision addressing the consequences of the denial of a fee waiver. Two commentators, the California Appellate Clerk’s Association and Joseph Lane, suggested that the appellate rules should include a provision addressing the impact of the denial of a fee waiver

request. They proposed adding language modeled on the current trial court fee waiver rules indicating that any paper filed without a fee would be ineffective if the fees were not paid within ten days after notice was given by the clerk.

The Appellate Advisory Committee approved the concept of adding a new provision—proposed new subdivision (f) in 8.26 and (e) in 8.818—addressing the effect of the denial of a fee waiver request. However, the language recommended by the committee is based on the language of Government Code section 68634.5(g) and provides only that, if an application is denied, the applicant must pay the court fees and costs, or submit the new application or additional information requested by the court, within 10 days after the clerk gives notice of the denial. The committee is also recommending that rules 8.100(c) and 8.821(c) be amended. These rules require the clerk to send a notice when the appellant fails to pay the fee for filing a notice of appeal or to provide one of the permissible substitutes, when a check for the filing fee is dishonored, or when a fee waiver is denied. Rules 8.100(c)(2) and 8.821(c)(2) currently specifically require that the notice sent by the clerk state that the court may dismiss the appeal unless, within 15 days after the notice is sent, the appellant pays the fees or files a fee waiver application, if one was not previously filed. Since the new fee waiver statutes require that the fees be paid 10 days after a denial, these existing rules are inconsistent with the new statute. Furthermore, it does not make sense to require that the notice that a fee waiver has been denied tell the recipient that he or she can file a fee waiver application. To address this, the committees recommend that rules 8.100(c)(2) and 8.821(c)(2) be amended to provide that the requirements concerning the contents of the clerk’s notice mandated by those rules do not apply to the denial of a fee waiver application. New advisory committee comments to rules 8.100 and 8.821 would direct readers to rules 8.26 and 8.818 on fee waivers for the consequences of the denial of a fee waiver application.

*Rules 8.26(e) and 8.818(d)—List of Fees That Are Waived on Appeal*

In an attempt to help litigants see, in one place, what fees and costs can be waived in an appeal, in the invitation to comment, proposed rule 8.102(e) included both Court of Appeal fees and the superior court fees for preparing, copying, and transmitting a clerk’s transcript on the list of fees that are waived when a fee waiver is granted on appeal. However, the proposed trial court rules also list the clerk’s transcript among fees waived when the trial court grants a fee waiver. The committee specifically sought comments concerning whether both the trial court rules and appellate rules should list the fees for the clerk’s transcript on appeal among the fees waived when a fee waiver is granted.

Three commentators responded to this question. Two – the California Appellate Clerk’s Association and Joseph Lane – responded that the appellate rules should not list the clerk’s transcript fees because these are trial court fees that may be

waived by the trial court, not the Court of Appeal. In response to these comments, the references to the clerk's transcript fees have been deleted from the text of rule 8.26. As an alternative way of alerting rule users that the clerk's transcript fees can also be waived, the proposed advisory committee comment to this rule indicates that a party can request that the trial court waive the clerk's transcript fees. In addition, as discussed above, proposed *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO) also explains that an applicant can request the trial court waiver of these fees.

Another commentator suggested that in the appellate division fee waiver rule, the list of fees waived should include the fee for obtaining an electronic recording of the oral argument. The committees are generally recommending that suggestions for adding new fees to the list of fees required to be waived be considered during the next rules cycle, because the public did not have an opportunity to comment on potential inclusion of these items. However, both the new appellate division form for designating the record on appeal in limited civil cases (form APP-103) and the information sheet on appeals in limited civil cases (form APP-101-INFO) indicate that the fees for obtaining either a transcript of an official electronic recording or a copy of an official electronic recording can be waived.<sup>29</sup> Based on this, the committees approved an amendment to proposed rule 8.818 adding the fees for these official electronic recordings or transcripts to the list of fees waived when a fee waiver is granted.

*Rules 8.26(d) and 8.818(c)—Automatic Grants When Court Does Not Act Within Five Days*

In the proposal that was circulated for comment, proposed advisory committee comments to rules 8.104 and 8.821 indicated that, under the fee waiver statutes, a fee waiver application is deemed granted if not acted on by the court within five days. These proposed advisory committee comments also stated that the court would notify the applicant if the waiver is deemed granted. In contrast, rule 3.53 in the proposed trial court fee waiver rules addressed this default grant procedure in a rule (which mandates use of form FW-005 to give notice of the automatic grant) rather than a comment. One commentator, the State Bar of California's Committee on the Administration of Justice, noted the differences in the trial and appellate rules and suggested that the appellate rules should include language similar to that in the trial court rules, including the requirement that the court give notice of any grant under this provision using a form specifically for this purpose. In response to

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<sup>29</sup> Note that court reporter's fees for preparing a reporter's transcript cannot be waived and this is clearly stated on form APP-015/FW-015-INFO. Under rule 2.952(g), however, transcripts of official electronic recordings may be made by or under the direction of the clerk, and thus the cost of preparing such a transcript would be a waivable court cost.



this suggestion, the committees recommend including the rules rather than the advisory committee comment provisions addressing the automatic grant of fee waivers if the court does not act on an application within 5 days (see proposed rules 8.26(d) and 8.818(c)) and what fees are waived (rules 8.26(e) and 8.818(d)).

*Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division) (Form APP-015/FW-015-INFO)*

As noted above, based on the comments from the California Appellate Clerk's Association and Joseph Lane, both the title and contents of proposed form APP-015/FW-015-INFO were revised to include references to the Supreme Court and to petitions for review. The proposed form was also revised to replace references to the separate appellate fee waiver application form with references to the proposed single fee waiver application form. In addition, based on a comment from the Superior Court of San Bernardino County, the form was revised to make it clearer that a prior fee waiver order from the trial court will only serve to waive trial court fees related to an appeal if that order is still in effect.

Two commentators suggested that this information sheet should address only proceedings in the Supreme Court and Court of Appeal and that all of the information about appellate division proceedings should be removed. The committees declined to make this change because they concluded it was important to provide information about all appellate proceedings in a single form.

*Order on Court Fee Waiver (Court of Appeal or Supreme Court) (Form APP-016/FW-016)*

Two commentators suggested restructuring and condensing form APP-016/FW-016 to more clearly list the three actions the court may take in response to a fee waiver application (grant, deny, or order a hearing) and to consolidate the warning boxes into a single warning box relating to denials. The committees agreed with these suggestions and revised the proposed form to incorporate these changes.<sup>30</sup>

Implementation Requirements and Costs

The implementation of this proposal is legislatively mandated. Education of clerks and judicial officers will be required. Implementation will require expenditure of judicial officer time on additional hearings on eligibility, reconsideration, and recovery issues in the trial court. Additional clerk time will be required in tracking the amount of fees waived. However, clerk time will also be saved by elimination of the provisions authorizing the clerk or a county officer to make reasonable

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<sup>30</sup> Comments and modifications concerning the time frame referenced in the form for consequences following a denial are discussed *supra*, in connection with similar modifications made to forms FW-003 and FW-008.

efforts to verify the litigant's financial condition. There will be additional costs involved to the courts in providing parties with new forms and additional costs associated with creating electronic versions of the new notice and order forms.

The increased recovery of initially waived filing fees will provide some additional funds to the court system as a whole. In addition, increased recovery of initially waived trial court charges may offset some of the additional costs to the courts.

### Recommendation

The Civil and Small Claims Advisory Committee, Family and Juvenile Law Advisory Committee, and Appellate Advisory Committee jointly recommend that the Judicial Council take the following actions to implement the provisions of the new fee waiver statutes, effective July 1, 2009:

1. Adopt new rules 8.26, and 3.57 of the California Rules of Court; amend rules 1.31, 3.50, 3.51, 8.100, 8.122, 8.128, 8.818, 8.821, 8.832, and 8.833; repeal rules 3.52, 3.53, 3.54, 3.55, 3.58, and 3.59; and amend and renumber rules 3.56, 3.57, 3.60, 3.61, 3.62, and 3.63 as rules 3.52, 3.53, 3.54, 3.55, 3.56, and 3.58, respectively; amend rules;
2. Revise the following forms:
  - a. *Request to Waive Court Fees* (form FW-001)
  - b. *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO)
  - c. *Request to Waive Additional Court Fees (Superior Court)* (form FW-002)
  - d. *Order on Court Fee Waiver (Superior Court)* (form FW-003)
  - e. *Notice: Waiver of Court Fees (Superior Court)* (form FW-005)
  - f. *Request for Dismissal* (form CIV-110)
  - g. *Summons* (form SUM-100)
  - h. *Summons—Cross-Complaint* (form SUM-110)
  - i. *Summons—Joint Debtor* (form SUM-120)
  - j. *Summons—Unlawful Detainer-Eviction* (form SUM-130)
  - k. *Summons—Storage Lien Enforcemen*) (from SUM-140)
  - l. *Summons—Enforcement of State Housing Law* (form SUM-145)
  - m. *Summons (Family Law)* (form FL-110)
  - n. *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)
  - o. *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103);
3. Adopt the following mandatory forms:
  - a. *Request for Hearing About Court Fee Waiver Order (Superior Court)* (form FW-006)

- b. *Notice on Hearing About Court Fees* (form FW-007)
  - c. *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008)
  - d. *Notice to Court of Improved Financial Situation or Settlement* (form FW-010)
  - e. *Notice to Appear for Reconsideration of Fee Waiver* (form FW-011)
  - f. *Order on Court Fee Waiver After Reconsideration Hearing (Superior Court)* (form FW-012)
  - g. *Order to Pay Waived Court Fees and Costs (Superior Court)* (form FL-336)
  - h. *Application to Set Aside Order to Pay Waived Court Fees—Attachment* (form FL-337)
  - i. *Order After Hearing on Motion to Set Aside Order to Pay Waived Court Fees* (form FL-338)
  - j. *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO);
4. Adopt the optional form *Order on Court Fee Waiver (Court of Appeal or Supreme Court)* (form APP-016/FW-016); and
5. Revoke the current *Order on Application for Waiver of Additional Court Fees and Costs* (form FW-004).

## Attachments

1 Rules 3.52, 3.53, 3.54, 3.55, 3.58, and 3.59 of the California Rules of Court would  
2 be repealed; rules 1.31, 3.50, and 3.51 would be amended; rules 3.56, 3.57, 3.60,  
3 3.61, 3.62, and 3.63 would be amended and renumbered as rules 3.52, 3.53, 3.54,  
4 3.55, 3.56, and 3.58, respectively, and new rule 3.57 would be adopted, effective  
5 July 1, 2009 to read:

6  
7  
8 **Rule 1.31. Mandatory forms**

9  
10 **(a)–(d) \*\*\*\***

11  
12 **(e) No alteration of forms**

13 Except as provided in rule 3.52(6), concerning court fee waiver orders, rule  
14 5.504, concerning court orders in juvenile court proceedings, and rule  
15 7.101.5, concerning court orders in proceedings under the Probate Code,  
16 courts may not require the use of an altered mandatory Judicial Council  
17 form in place of the Judicial Council form. However, a judicial officer may  
18 modify a Judicial Council form order as necessary or appropriate to  
19 adjudicate a particular case.

20  
21 **(f)–(g) \*\*\*\***

22  
23  
24 **Division 2. Waiver of Fees and Costs**

25  
26 **Rule 3.50. Application of rules**

27  
28 **(a) Application**

29  
30 The rules in this division govern applications in the trial court for an order to  
31 proceed in forma pauperis—that is, without paying initial waiver of court  
32 fees and costs because of the applicant’s financial condition. As provided in  
33 Government Code sections 68631 and following, any waiver may later be  
34 ended, modified, or retroactively withdrawn if the court determines that the  
35 applicant is not eligible for the waiver. As provided in Government Code  
36 sections 68636 and 68637, the court may, at a later time, determine that the  
37 previously waived fees and costs be paid.

38  
39 **(b) Definitions**

40  
41 For purpose of the rules in this division, “initial fee waiver” means the initial  
42 waiver of court fees and costs that may be granted at any stage of the

proceedings and includes both the fees and costs specified in rule 3.55 and any additional fees and costs specified in rule 3.56.

### **Rule 3.51. Method of application and filing of papers**

#### **(a) Mandatory application forms**

An application to proceed in forma pauperis for initial fee waiver under rule 3.55 must be made on *Application for Waiver of Court Fees and Costs Request to Waive Court Fees* (form FW-001). An application for initial fee waiver under rule 3.62 3.56 must be made on *Application for Waiver of Additional Court Fees and Costs Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The clerk must provide either the forms and the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) without charge to any person who requests it any fee waiver application or indicates that he or she is unable to pay any court fee or cost.

#### **(b) Other forms**

No applicant may be required to complete any form as part of his or her application under this rule other than forms adopted by the Judicial Council, except as authorized by Government Code section 68511.3(e)(1). Upon receipt of an application, the clerk must immediately file the application and any pleading or other paper presented by the applicant.

### **Rule 3.52. Eligibility**

#### **(a) Mandatory**

The court must grant an application to proceed in forma pauperis and must waive payment of court fees and costs listed in rule 3.61, and must waive payment of those additional court fees and costs listed in rule 3.62 that the court finds necessary, if the applicant meets the standards of eligibility established by Government Code section 68511.3(a)(6)(A) or (a)(6)(B).

#### **(b) Discretionary**

Except for an order required under (a), the court may make an order granting an application to proceed in forma pauperis under Government Code section 68511.3 or otherwise. The order may waive payment of part or all of the fees and costs and may provide that a lien exists on any money recovered by the applicant for any waived fees and costs, which shall be deemed to be taxable costs.

1  
2 **Rule 3.53 Verification of financial condition**

3  
4 **(a) Reasonable efforts to verify financial condition**

5  
6 The court may, authorize the clerk of the court, or a court financial officer, or  
7 other appropriate county officer to make reasonable efforts to verify an  
8 applicant's financial condition. The reasonable efforts to verify must not  
9 include requiring all applicants to submit documentation to support the  
10 information contained in their applications except as authorized by  
11 Government Code section 68511.3(b)(1) and (c)(1).  
12

13  
14 **(b) Additional documentation**

15  
16 Additional documentation of an applicant's financial condition may be  
17 required only if the applicant failed to provide the information required by  
18 the application form or if the court has good reason to doubt the truthfulness  
19 of the factual allegations in the application. If the applicant is required to  
20 submit additional documentation of his or her financial condition, the court  
21 or person authorized under (a) must:  
22

- 23 (1) Inform the applicant of the information in the application that is  
24 insufficient or that the court believes may not be truthful;  
25  
26 (2) Inform the applicant of the specific type or types of documentation the  
27 applicant must submit;  
28  
29 (3) Require the applicant to submit only documentation that the applicant  
30 has in his or her possession or can obtain with reasonable efforts; and  
31  
32 (4) Require the applicant to submit only enough documentation as is  
33 necessary to clarify or prove the truthfulness of the factual allegations  
34 in the application.  
35

36  
37 **Rule 3.54. Determination without regard to pleading or paper submitted for**  
38 **filing**

39  
40 The court must determine an application to proceed in forma pauperis without  
41 regard to the applicant's pleading or other paper filed, if any.  
42

1  
2 **Rule ~~3.55~~. Effect of denial of application; time for payment of fees**

3  
4 If an application is denied, any paper filed without payment of fees is ineffective  
5 unless the fees are paid within 10 days after notice is given by the clerk under rule  
6 3.56. If the fees are paid more than 10 days after that notice was given, the date the  
7 applicant's pleading or other paper was originally presented to the clerk is the date  
8 for determining whether the action or proceeding was commenced within the  
9 period provided by law.

10  
11 **Rule 3.52 ~~3.56~~. Procedure for determining application**

12  
13 The procedure for determining an application is as follows:

- 14  
15 (1) The trial court must consider and determine the application as required by  
16 Government Code sections 68511.368634 and 68635.  
17  
18 (2) An order determining an application ~~to proceed in forma pauperis~~ for an  
19 initial fee waiver must be made on *Order on Court Fee Waiver (Superior*  
20 *Court) ~~Application for Waiver of Court Fees and Costs~~* (form FW-003),  
21 except as provided in (6) below.  
22  
23 (3) An order determining an application for an initial fee waiver after a hearing  
24 in the trial court must be made on *Order on Court Fee Waiver After Hearing*  
25 (Superior Court) (form FW-008).  
26  
27 (4) Any order granting a fee waiver must be accompanied by a blank *Notice of*  
28 *Improved Financial Situation or Settlement* (form FW-010).  
29  
30 (5) Any order denying an application without a hearing on the ground that the  
31 information on the application conclusively establishes that the applicant is  
32 not eligible for a waiver must be accompanied by a blank *Request for*  
33 *Hearing About Fee Waiver Order (Superior Court)* (form FW-006).  
34  
35 (6) Until January 1, 2013, a court with a computerized case management system  
36 may produce electronically generated court fee waiver orders as long as:  
37  
38 (A) The document is substantively identical to the mandatory Judicial  
39 Council form it is replacing;  
40  
41 (B) Any electronically generated form is identical in both language and  
42 legally mandated elements, including all notices and advisements, to the  
43 mandatory Judicial Council form it is replacing; and

(C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g), concerning orders not on Judicial Council mandatory forms.

(3) ~~An order denying an application to proceed in forma pauperis, in whole or in part, must include a statement of the reasons for the denial as required by Government Code section 68511.3.~~

(4) ~~The clerk must immediately mail or deliver a copy of the order to the attorney for the applicant or, if no attorney, to the applicant if the application is not granted in full and, if the application is denied, to each other party who has appeared in the action or proceeding.~~

(5) ~~The court may delegate to the clerk in writing the authority to grant applications to proceed in forma pauperis that meet the standards of eligibility in Government Code section 68511.3(a)(6)(A) or (a)(6)(B). The court may not delegate authority to deny an application.~~

#### **Rule 3.53 3.57 Application granted unless acted on by the court**

~~The application to proceed in forma pauperis~~ for initial fee waiver is deemed granted unless acted on by the court gives notice of action on the application within five court days after it is filed. If the application is deemed granted under this provision, the clerk must ~~execute~~ prepare and serve a *Notice of Waiver of Court Fees and Costs* *Notice: Waiver of Court Fees (Superior Court)* (form FW-005) five court days after the application is filed.

#### **~~Rule 3.58. Hearing on application~~**

##### **(a) ~~Notice of hearing~~**

~~If the court determines that there is substantial evidentiary conflict concerning the applicant's eligibility to proceed in forma pauperis, the clerk must immediately give the applicant at least 10 days' written notice of a hearing.~~

##### **(b) ~~Confidentiality of hearing~~**

~~To ensure confidentiality of the applicant's financial information, the hearing must be held in private and the court must exclude all persons except court attachés, the applicant, those present with the applicant's consent, and any witness being examined.~~



**~~Rule 3.59. Changed circumstances~~**

**~~(a) Duty to notify court of changed circumstances~~**

~~A person whose application to proceed in forma pauperis for an initial fee waiver has been granted must promptly notify the court of any changed financial circumstances affecting his or her ability to pay court fees and costs.~~

**~~(b) Reconsideration by court~~**

~~The court may not reconsider a successful applicant's eligibility to proceed in forma pauperis before the final determination of the case except in connection with an application for waiver of additional court fees and costs under rule 3.62 or in accordance with Government Code section 68511.3(d).~~

**~~(c) Authorization to determine if condition has changed~~**

~~The court may authorize the clerk of the court, the county financial officer, or another appropriate county officer to determine whether a successful applicant's financial condition has changed, enabling the applicant to pay all or a portion of the fees and costs that were waived, in the following manner:~~

- ~~(1) The authorized officer must notify the applicant personally or in writing that the applicant must complete and file a new application to proceed in forma pauperis.~~
- ~~(2) The notice under (1) must be accompanied by a blank application form.~~
- ~~(3) No applicant may be required to submit a new completed application more frequently than once every four months.~~
- ~~(4) The authorized clerk or county officer must review the new application. If the clerk or officer determines that the applicant's financial condition has changed, the court may order the applicant to pay a sum in a manner that the court believes is compatible with the applicant's financial ability.~~

1 **Rule 3.54 ~~3.60~~. Confidentiality**

2  
3 **(a) Confidential records**

4  
5 No person may have access to an application ~~to proceed in forma pauperis~~  
6 ~~for an initial fee waiver~~ except the court and authorized court personnel,  
7 ~~persons authorized to verify the information under rules 3.53 and 3.59(c) and~~  
8 ~~under Government Code section 68511.3, and any persons~~ authorized by the  
9 applicant, and any persons authorized by order of the court. No person may  
10 reveal any information contained in the application except as authorized by  
11 law or order of the court.  
12

13 **(b) Request for access to confidential records**

14  
15 Any person seeking access to an application or financial information  
16 provided to the court by an applicant must make the request by noticed  
17 motion, supported by a declaration showing good cause regarding why the  
18 confidential information should be released.  
19

20 **(c) Order**

21  
22 An order granting access to an application or financial information may  
23 include limitations on who may access the information and on the use of the  
24 information after it has been released.  
25  
26

27 **Rule 3.55 ~~3.61~~. Court fees and costs included in all initial fee waivers ~~waived~~**  
28 **~~by initial application~~**

29  
30 Court fees and costs that must be waived upon granting an application ~~to proceed~~  
31 ~~in forma pauperis~~ for an initial fee waiver include:  
32

- 33 (1) Clerk's fees for filing papers;  
34  
35 (2) Clerk's fees for reasonably necessary certification and copying;  
36  
37 (3) Clerk's fees for issuance of process and certificates;  
38  
39 (4) Clerk's fees for transmittal of papers;  
40  
41 (5) Court-appointed interpreter's fees for parties in small claims actions;  
42

- (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of division 2 of the Government Code (commencing with section 26720);
- (7) Reporter's daily fees for attendance at hearings and trials held within 60 days of the date of the order granting the application;
- (8) The court fee for a telephone appearance under ~~Government Code section 68070.1(e)~~ Code of Civil Procedure section 367.5; and
- (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on appeal to the reviewing court and the party. A party proceeding ~~in forma pauperis~~ under an initial fee waiver must specify with particularity the documents to be included in the clerk's transcript on appeal.

**Rule 3.56 3.62. Additional court fees and costs that may be included in initial fee waiver waived**

Necessary ~~The~~ court fees and costs that may be waived upon granting an application for an initial fee waiver, either at the outset or upon later application, include:

- (1) Jury fees and expenses;
- (2) Court-appointed interpreter's fees for witnesses;
- (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or defense of the case;
- (4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date of the order granting the application;
- (5) Witness fees of court-appointed experts; and
- (6) Other fees or expenses as itemized in the application.

**Rule 3.57. Amount of lien for waived fees and costs**

To determine the amount of the court lien for waived fees and costs, any party to a civil action in which an initial fee waiver has been granted may ask the clerk to

1 calculate the total amount of court fees and costs that have been waived as of the  
2 date of the request.

3  
4 **Rule 3.58 3.63. Posting notice**

5  
6 Each trial court must post in a conspicuous place near the filing window or counter  
7 a notice, 8½ by 11 inches or larger, advising litigants in English and Spanish that  
8 they may ask the court to waive court fees and costs. The notice must be  
9 substantially as follows:

10  
11 “NOTICE: If you are unable to pay fees and costs, you may ask the court to permit  
12 you to proceed without paying them. Ask the clerk for the *Information Sheet on*  
13 *Waiver of Superior Court Fees and Costs* or *Information Sheet on Waiver of Court*  
14 *Fees and Costs for Appeal or Writ Proceedings* and the *Application for Waiver of*  
15 *Request to Waive Court Fees and Costs.”.*

Rules 8.26 and 8.818 of the California Rules of Court would be adopted and rules 8.100, 8.122, 8.128, 8.821, 8.832, and 8.833 would be amended effective July 1, 2009 to read:

## **Title 8. Appellate Rules**

### **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

#### **Chapter 1. General Provisions**

#### **Article 2. Service, Filing, Form, and Number of Documents**

##### **Rule 8.26. Waiver of fees and costs**

###### **(a) Application form**

An application for initial waiver of court fees and costs in the Supreme Court or Court of Appeal must be made on *Request to Waive Court Fees* (form FW-001). The clerk must provide *Request to Waive Court Fees* (form FW-001) and the *Information Sheet on Waiver of Fees and Costs (Supreme Court, Court of Appeal, or Appellate Division)* (form APP-015/FW-015-INFO) without charge to any person who requests any fee waiver application or states that he or she is unable to pay any court fee or cost.

###### **(b) Filing the application**

###### **(1) Appeals**

The appellant should submit any application for initial waiver of court fees and costs for an appeal with the notice of appeal in the superior court that issued the judgment or order being appealed. The respondent should submit any application for initial waiver of the court fees and costs for an appeal at the time the fees are to be paid to the court.

###### **(2) Writ Proceedings**

The petitioner should submit the application for waiver of the court fees and costs for a writ proceeding with the writ petition.

1       (3) Petitions for Review

2  
3       The petitioner should submit the application for waiver of the court fees  
4       and costs for a petition for review in the Supreme Court with the  
5       petition.

6  
7       **(c) Procedure for determining application**

8  
9       The application must be considered and determined as required by  
10      Government Code section 68634.5. An order from the Supreme Court or  
11      Court of Appeal determining the application for initial fee waiver or setting  
12      a hearing on the application in the Supreme Court or Court of Appeal may  
13      be made on Order on Court Fee Waiver (Court of Appeal or Supreme  
14      Court) (form APP-016/FW-016.)

15  
16      **(d) Application granted unless acted on by the court**

17  
18      The application for initial fee waiver is deemed granted unless the court  
19      gives notice of action on the application within five court days after the  
20      application is filed.

21  
22      **(e) Court fees and costs waived**

23  
24      Court fees and costs that must be waived on granting an application for initial  
25      waiver of court fees and costs in the Supreme Court or Court of Appeal  
26      include:

- 27  
28      (1) The fee for filing the notice of appeal under Government Code section  
29      68926;  
30  
31      (2) The fee for filing an original proceeding required under Government  
32      Code section 68926;  
33  
34      (3) The fee for filing a petition for review required by Government Code  
35      section 68927; and  
36  
37      (4) Any court fee for telephonic oral argument.

38  
39      **(f) Denial of the application**

40  
41      If an application is denied, the applicant must pay the court fees and costs or  
42      submit the new application or additional information requested by the court  
43      within 10 days after the clerk gives notice of the denial.

1  
2 **(g) Confidential Records**

- 3  
4 (1) No person may have access to an application for an initial fee waiver  
5 submitted to the court except the court and authorized court personnel,  
6 any persons authorized by the applicant, and any persons authorized by  
7 order of the court. No person may reveal any information contained in  
8 the application except as authorized by law or order of the court. An  
9 order granting access to an application or financial information may  
10 include limitations on who may access the information and on the use of  
11 the information after it has been released.  
12  
13 (2) Any person seeking access to an application or financial information  
14 provided to the court by an applicant must make the request by motion,  
15 supported by a declaration showing good cause as to why the  
16 confidential information should be released.  
17

18  
19 **Advisory Committee Comment**

20  
21 **Subdivision (a).** The waiver of court fees and costs is called an “initial” waiver because, under  
22 Government Code section 68630 and following, any such waiver may later be modified,  
23 terminated, or retroactively withdrawn if the court determines that the applicant was not or is no  
24 longer eligible for a waiver. The court may, at a later time, order that the previously waived fees  
25 be paid.  
26

27 **Subdivision (b)(1).** If an applicant is requesting waiver of both Court of Appeal fees, such as the  
28 fee for filing the notice of appeal, and superior court fees, such as the fee for preparing,  
29 certifying, copying, and transmitting the clerk’s transcript, the clerk of the superior court may ask  
30 the applicant to provide two signed copies of *Request to Waive Court Fees* (form FW-001).  
31

32 **Subdivision (e).** The parties in an appeal may also ask the superior court to waive the deposit  
33 required under Government Code section 68926.1 and the fees under rule 8.122 for preparing,  
34 certifying, copying, and transmitting the clerk’s transcript to the reviewing court and to the  
35 requesting party.  
36

37  
38 **Chapter 2. Civil Appeals**

39  
40  
41 **Rule 8.100. Filing the appeal**

42  
43 **(a) \* \* \***  
44

1 **(b) Fee and deposit**

- 2
- 3 (1) Unless otherwise provided by law, the notice of appeal must be
- 4 accompanied by a \$655 filing fee under Government Code sections
- 5 68926 and 68926.1(b), an application for a waiver of court fees and
- 6 costs on appeal under rules ~~3.50–3.63~~ 8.26, or an order granting such
- 7 an application. The fee should be paid by check or money order
- 8 payable to “Clerk, Court of Appeal”; if the fee is paid in cash, the clerk
- 9 must give a receipt.
- 10
- 11 (2) The appellant must also deposit \$100 with the superior court clerk
- 12 under Government Code section 68926.1, unless otherwise provided by
- 13 law or the superior court waives the deposit ~~under rules 3.50–3.63~~.
- 14
- 15 (3) The clerk must file the notice of appeal even if the appellant does not
- 16 present the filing fee, the deposit, or an application for, or order
- 17 granting, a waiver ~~under rules 3.50–3.63~~ of fees and costs.
- 18

19 **(c) Failure to pay filing fee**

- 20
- 21 (1) The reviewing court clerk must promptly notify the appellant in writing
- 22 if:
- 23
- 24 (A) The reviewing court receives a notice of appeal without the filing
- 25 fee required by (b)(1), a certificate of cash payment under (e)(5),
- 26 or an application for, or order granting, a fee waiver under rules
- 27 ~~3.50–3.63~~ 8.26;
- 28
- 29 (B) A check for the filing fee is dishonored; or
- 30
- 31 (C) An application for a waiver under rules ~~3.50–3.63~~ 8.26 is denied.
- 32
- 33 (2) A clerk’s notice under (1)(A) or (B) must state that the court may
- 34 dismiss the appeal unless, within 15 days after the notice is sent, the
- 35 appellant either:
- 36
- 37 (A) Pays the fee; or
- 38
- 39 (B) Files an application for a waiver under rules ~~3.50–3.63~~ 8.26 if the
- 40 appellant has not previously filed such an application.
- 41



- (3) If the appellant fails to take the action specified in a notice given under (2), the reviewing court may dismiss the appeal, but may vacate the dismissal for good cause.

**(d) Failure to pay deposit**

- (1) If the appellant fails to pay the deposit to the superior court required under (b)(2), the superior court clerk must promptly notify the appellant in writing that the reviewing court may dismiss the appeal unless, within 15 days after the notice is sent, the appellant either:

(A) Makes the deposit; or

(B) Files an application in the superior court for a waiver ~~under rules 3.50–3.63~~ of fees and costs if the appellant has not previously filed such an application or an order granting such an application.

- (2) If the appellant fails to take the action specified in a notice given under (1), the superior court clerk must notify the reviewing court of the default.

- (3) If the superior court clerk notifies the reviewing court of a default under (2), the reviewing court may dismiss the appeal, but may vacate the dismissal for good cause.

**(e)–(g) \* \* \***

**Advisory Committee Comment**

**Subdivision (a). \* \* \***

**Subdivision (b). \* \* \***

**Subdivision (c)(2).** This subdivision addresses the content of a clerk’s notice that a check for the filing fee has been dishonored or that the reviewing court has received a notice of appeal without the filing fee, a certificate of cash payment, or an application for, or order granting, a fee waiver. Rule 8.26(f) addresses what an appellant must do when a fee waiver application is denied.

**Subdivision (e). \* \* \***

**Rule 8.122. Clerk’s transcript**

**(a)–(b) \* \* \***

1  
2 **(c) Deposit for cost of transcript**

- 3  
4 (1) Within 30 days after the respondent files a designation under (a)(2) or  
5 the time for filing it expires, whichever first occurs, the superior court  
6 clerk must send:  
7  
8 (A) To the appellant, notice of the estimated cost to prepare an  
9 original and one copy of the clerk's transcript; and  
10  
11 (B) To each party other than the appellant, notice of the estimated  
12 cost to prepare a copy of the clerk's transcript for that party's use.  
13  
14 (2) A notice under (1) must show the date it was sent.  
15  
16 (3) Within 10 days after the clerk sends a notice under (1), the appellant  
17 and any party wanting to purchase a copy of the clerk's transcript must  
18 deposit the estimated cost with the clerk, unless otherwise provided by  
19 law or the party submits an application for, or an order granting, a  
20 waiver of the cost ~~under rules 3.50–3.63~~.

21  
22 **(d) \* \* \***

23  
24 **Advisory Committee Comment**

25  
26 **Subdivision (a). \* \* \***

27  
28 **Subdivision (b). \* \* \***

29  
30 **Subdivision (c).** Under subdivision (c)(2), a clerk who sends a notice under subdivision (c)(1)  
31 must include a certificate stating the date on which the clerk sent it. This provision is intended to  
32 establish the date when the 10-day period for depositing the cost of the clerk's transcript under  
33 this rule begins to run.

34  
35 The Superior Court will make the determination on any application to waive the fees for  
36 preparing, certifying, copying, and transmitting the clerk's transcript.

37  
38  
39 **Rule 8.128. Superior court file instead of clerk's transcript**

40  
41 **(a) \* \* \***

42  
43 **(b) Cost estimate; preparation of file; transmittal**

(1) Within 10 days after a stipulation under (a) is filed, the superior court clerk must mail the appellant an estimate of the cost to prepare the file, including the cost of sending the index under (3). The appellant must deposit the cost or file an application for, or an order granting, a waiver of the cost within 10 days after the clerk mails the estimate.

(2) Within 10 days after the appellant deposits the cost or the court files an order waiving that cost, the superior court clerk must put the superior court file in chronological order, number the pages, and attach a chronological index and a list of all attorneys of record, the parties they represent, and any unrepresented parties.

(3) \* \* \*

(4) \* \* \*

#### **Advisory Committee Comment**

**Subdivision (b).** The Superior Court will make the determination on any application to waive the fees for preparing and transmitting the trial court file.

## **Division 2. Rules Relating to the Superior Court Appellate Division**

### **Chapter 1. General Rules Applicable to Appellate Division Proceedings**

#### **Rule 8.818. Waiver of fees and costs**

##### **(a) Applications for waiver of fees and costs**

###### **(1) Appeals**

(A) If the trial court previously issued an order granting a party's request to waive court fees and costs in a case, and that fee waiver is still in effect, all of the court fees for an appeal to the appellate division in that case that are listed in (d) are waived by that order, and the party is not required to file a new application for waiver of court fees and costs for an appeal to the appellate division in that case.

(B) If the trial court did not previously issue an order granting a party's request to waive court fees and costs in a case or an order

1                   that was previously issued is no longer in effect, an application  
2                   for initial waiver of court fees and costs for an appeal must be  
3                   made on *Request to Waive Court Fees* (form FW-001). The  
4                   appellant should file the application with the notice of appeal in  
5                   the trial court that issued the judgment or order being appealed.  
6                   The respondent should file any application at the time the fees  
7                   are to be paid to the court.

8  
9           (2)   *Writ Proceedings*

10  
11                   To request the waiver of fees and costs in a writ proceeding, the  
12                   petitioner must complete *Request to Waive Court Fees* (form FW-  
13                   001). The petitioner should file the application with the writ petition.

14  
15           (3)   *Forms*

16  
17                   The clerk must provide *Request to Waive Court Fees* (form FW-001)  
18                   and *Information Sheet on Waiver of Fees and Costs (Supreme Court,*  
19                   *Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO)  
20                   without charge to any person who requests any fee waiver application  
21                   or states that he or she is unable to pay any court fee or cost.

22  
23   (b)   **Procedure for determining application**

24  
25                   The application must be considered and determined as required by  
26                   Government Code section 68634.5. An order determining the application for  
27                   initial fee waiver or setting a hearing on the application may be made on  
28                   *Order on Court Fee Waiver (Superior Court)* (form FW-003).

29  
30   (c)   **Application granted unless acted on by the court**

31  
32                   The application for initial fee waiver is deemed granted unless the court  
33                   gives notice of action on the application within five court days after the  
34                   application is filed.

35  
36   (d)   **Court fees and costs waived**

37  
38                   Court fees and costs that must be waived upon granting an application for  
39                   initial waiver of court fees and costs include:

40  
41           (1)   The fee for filing the notice of appeal;  
42

- 1           (2) The clerk’s fees for preparing and certifying the clerk’s transcript on  
2           appeal and for copying and transmitting a copy of this transcript to the  
3           applicant;  
4  
5           (3) The fee for preparing a transcript of an official electronic recording  
6           under rule 8.835 or a copy of such an electronic recording; and  
7  
8           (4) Any court fee for telephonic oral argument.  
9

10 **(e) Denial of the application**

11  
12 If an application is denied, the applicant must pay the court fees and costs or  
13 submit the new application or additional information requested by the court  
14 within 10 days after the clerk gives notice of the denial.  
15

16 **(f) Confidential Records**

- 17  
18           (1) No person may have access to an application for an initial fee waiver  
19           submitted to the court except the court and authorized court personnel,  
20           any person authorized by the applicant, and any persons authorized by  
21           order of the court. No person may reveal any information contained in  
22           the application except as authorized by law or order of the court. An  
23           order granting access to an application or financial information may  
24           include limitations on who may access the information and on the use of  
25           the information after it has been released.  
26  
27           (2) Any person seeking access to an application or financial information  
28           provided to the court by an applicant must make the request by motion,  
29           supported by a declaration showing good cause as to why the  
30           confidential information should be released.  
31

32 **Advisory Committee Comment**

33  
34 **Subdivision (a)(1)(B).** The waiver of court fees and costs is called an “initial” waiver because,  
35 under Government Code section 68630 and following, any such waiver may later be modified,  
36 ended, or retroactively withdrawn if the court determines that the applicant was not or is no  
37 longer eligible for a waiver. The court may, at a later time, order that the previously waived fees  
38 be paid.

1  
2  
3 **Chapter 2. Appeals and Records in Limited Civil Cases**  
4  
5

6 **Rule 8.821. Notice of appeal**  
7

8 (a) \* \* \*

9  
10 (b) **Filing fee**  
11

- 12 (1) Unless otherwise provided by law, the notice of appeal must be  
13 accompanied by the filing fee required under Government Code section  
14 70621, an application for a waiver of court fees and costs on appeal  
15 under ~~rules 3.50–3.63~~ rule 8.818, or an order granting ~~such an~~  
16 application for a waiver of court fees and costs. The filing fee is  
17 nonrefundable.  
18  
19 (2) The clerk must file the notice of appeal even if the appellant does not  
20 present the filing fee or an application for, or order granting, a waiver  
21 ~~under rules 3.50–3.63~~ of court fees and costs.  
22

23 (c) **Failure to pay filing fee**  
24

- 25 (1) The clerk must promptly notify the appellant in writing if:  
26  
27 (A) The court receives a notice of appeal without the filing fee  
28 required by (b) or an application for, or order granting, a fee  
29 waiver ~~under rules 3.50–3.63~~ of court fees and costs;  
30  
31 (B) A check for the filing fee is dishonored; or  
32  
33 (C) An application for a waiver under ~~rules 3.50–3.63~~ rule 8.818 is  
34 denied.  
35  
36 (2) A clerk's notice under (1)(A) or (B) must state that the court may  
37 dismiss the appeal unless, within 15 days after the notice is sent, the  
38 appellant either:  
39  
40 (A) Pays the fee; or  
41

(B) Files an application for a waiver under ~~rules 3.50–3.63~~ rule 8.818 if the appellant has not previously filed such an application or an order granting such an application.

(3) If the appellant fails to take the action specified in the notice given under (2), the appellate division may dismiss the appeal, but may vacate the dismissal for good cause.

(d)–(e) \* \* \*

#### Advisory Committee Comment

Subdivision (a). \* \* \*

Subdivision (c)(2). This subdivision addresses the content of a clerk’s notice that a check for the filing fee has been dishonored or that the reviewing court has received a notice of appeal without the filing fee, a certificate of cash payment, or an application for, or order granting, a fee waiver. Rule 8.818(e) addresses what an appellant must do when a fee waiver application is denied.

#### Rule 8.832. Clerk’s transcript

(a)–(b) \* \* \*

#### (c) Deposit for cost of clerk’s transcript

(1) Within 30 days after the respondent files a designation under (b)(1) or the time to file it expires, whichever first occurs, the trial court clerk must send:

(A) To the appellant, notice of the estimated cost to prepare an original and one copy of the clerk’s transcript; and

(B) To each party other than the appellant, notice of the estimated cost to prepare a copy of the clerk’s transcript for that party’s use.

(2) A notice under (1) must show the date it was sent.

(3) Within 10 days after the clerk sends a notice under (1), the appellant and any party wanting to purchase a copy of the clerk’s transcript must deposit the estimated cost with the clerk, unless otherwise provided by law or the party submits an application for a waiver of the cost under rule 8.818; or an order granting, a waiver of the this cost under rules 3.50–3.63.

1  
2 (d) \* \* \*

3  
4  
5 **Rule 8.833. Trial court file instead of clerk's transcript**

6  
7 (a) \* \* \*

8  
9 (b) **Cost estimate; preparation of file; transmittal**

10  
11 (1) Within 10 days after the appellant serves a notice under rule 8.831  
12 indicating that the appellant elects to use a clerk's transcript, the trial  
13 court clerk may mail the appellant a notice indicating that the appellate  
14 division for that court has elected by local court rule to use the original  
15 trial court file instead of a clerk's transcript and providing the appellant  
16 with an estimate of the cost to prepare the file, including the cost of  
17 sending the index under (4).

18  
19 (2) Within 10 days after the clerk mails the estimate under (1), the  
20 appellant must deposit the estimated cost with the clerk, unless  
21 otherwise provided by law or the party submits an application for a  
22 waiver of the cost under rule 8.818, or an order granting, a waiver of  
23 the this cost under rules 3.50-3.63.

24  
25 (3)-(5) \* \* \*



If you are getting public benefits, are a low-income person, or do not have enough income to pay for household's basic needs and your court fees, you may use this form to ask the court to waive all or part of your court fees. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- You cannot give the court proof of your eligibility,
- Your financial situation improves during this case, or
- You settle your civil case for **\$10,000** or more. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL  
v. 15 4.1.09**

Fill in court name and street address:

Fill in case number and name:

Case Number:

Case Name:

**1 Your Information** (person asking the court to waive the fees):

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**2 Your Job**, if you have one (job title): \_\_\_\_\_

Name of employer: \_\_\_\_\_

Employer's address: \_\_\_\_\_

**3 Your lawyer**, if you have one (name, firm or affiliation, address, phone number, and State Bar number): \_\_\_\_\_

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes ☐ No ☐

b. (If yes, your lawyer must sign here) Lawyer's signature: \_\_\_\_\_

*If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.*

**4 What court's fees or costs are you asking to be waived?**

- ☐ Superior Court (See *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)
- ☐ Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See *Information Sheet on Waiver of Appellate Court Fees and Costs* (form APP-015/FW-015-INFO).)

**5 Why are you asking the court to waive your court fees?**

a. ☐ I receive (check all that apply): ☐ Medi-Cal ☐ Food Stamps ☐ SSI ☐ SSP ☐ County Relief/General Assistance ☐ IHSS (In-Home Supportive Services) ☐ CalWORKS or Tribal TANF (Tribal Temporary Assistance for Needy Families) ☐ CAPI (Cash Assistance Program for Aged, Blind and Disabled)

b. ☐ My gross monthly household income (before deductions for taxes) is less than the amount listed below. (If you check 5b you must fill out 7, 8 and 9 on page 2 of this form.)

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	If more than 6 people at home, add \$375 for each extra person.
1	\$1,083.54	3	\$1,888.34	5	\$2,583.34	
2	\$1,458.34	4	\$2,208.34	6	\$2,958.34	

c. ☐ I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to (check one): ☐ waive all court fees ☐ waive some of the court fees ☐ let me make payments over time (Explain): \_\_\_\_\_ (If you check 5c, you must fill out page 2.)

**6** ☐ Check here if you asked the court to waive your court fees for this case in the last six months.

(If your previous request is reasonably available, please attach it to this form and check here: ☐ )

**I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.**

Date: \_\_\_\_\_

Print your name here

Sign here

Your name: \_\_\_\_\_

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 only. If you checked 5c, you **must** fill out this entire page. If you need more space, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

- 7 ☐ Check here if your income changes a lot from month to month. Fill out below based on your average income for the past 12 months.

**8 Your Monthly Income**

- a. Gross monthly income (before deductions): \$ \_\_\_\_\_  
List each payroll deduction and amount below:
- |     |       |          |
|-----|-------|----------|
| (1) | _____ | \$ _____ |
| (2) | _____ | \$ _____ |
| (3) | _____ | \$ _____ |
| (4) | _____ | \$ _____ |
- b. Total deductions (add 8a (1)-(4) above): \$ \_\_\_\_\_
- c. Total monthly take-home pay (8a minus 8b): \$ \_\_\_\_\_
- d. List the source and amount of any other income you get each month, including: spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.
- |     |       |          |
|-----|-------|----------|
| (1) | _____ | \$ _____ |
| (2) | _____ | \$ _____ |
| (3) | _____ | \$ _____ |
| (4) | _____ | \$ _____ |
- e. Your total monthly income is (8c plus 8d): \$ \_\_\_\_\_

**9 Household Income**

- a. List all other persons living in your home and their income; include only your spouse and all individuals who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.
- | Name      | Age   | Relationship | Gross Monthly Income |
|-----------|-------|--------------|----------------------|
| (1) _____ | _____ | _____        | \$ _____             |
| (2) _____ | _____ | _____        | \$ _____             |
| (3) _____ | _____ | _____        | \$ _____             |
| (4) _____ | _____ | _____        | \$ _____             |
- b. Total monthly income of persons above: \$ \_\_\_\_\_

**Total monthly income and household income (8e plus 9b):** \$ \_\_\_\_\_

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach form MC-025. Or attach a sheet of paper, and write Financial Information and your name and case number at the top. Check here if you attach another page. ☐

**Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.**

**10 Your Money and Property**

- a. Cash ----- \$ \_\_\_\_\_
- b. All financial accounts (List bank name and amount):
- |     |       |          |
|-----|-------|----------|
| (1) | _____ | \$ _____ |
| (2) | _____ | \$ _____ |
| (3) | _____ | \$ _____ |
| (4) | _____ | \$ _____ |
- c. Cars, boats, and other vehicles
- | Make / Year | Fair Market Value | How Much You Still Owe |
|-------------|-------------------|------------------------|
| (1) _____   | \$ _____          | \$ _____               |
| (2) _____   | \$ _____          | \$ _____               |
| (3) _____   | \$ _____          | \$ _____               |
- d. Real estate
- | Address   | Fair Market Value | How Much You Still Owe |
|-----------|-------------------|------------------------|
| (1) _____ | \$ _____          | \$ _____               |
| (2) _____ | \$ _____          | \$ _____               |
| (3) _____ | \$ _____          | \$ _____               |
- e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):
- | Describe  | Fair Market Value | How Much You Still Owe |
|-----------|-------------------|------------------------|
| (1) _____ | \$ _____          | \$ _____               |
| (2) _____ | \$ _____          | \$ _____               |
| (3) _____ | \$ _____          | \$ _____               |

**11 Your Monthly Expenses**

(Do not include payroll deductions you already listed in 8b.)

- a. Rent or house payment & maintenance \$ \_\_\_\_\_
- b. Food and household supplies \$ \_\_\_\_\_
- c. Utilities and telephone \$ \_\_\_\_\_
- d. Clothing \$ \_\_\_\_\_
- e. Laundry and cleaning \$ \_\_\_\_\_
- f. Medical and dental expenses \$ \_\_\_\_\_
- g. Insurance (life, health, accident, etc.) \$ \_\_\_\_\_
- h. School, child care \$ \_\_\_\_\_
- i. Child, spousal support (another marriage) \$ \_\_\_\_\_
- j. Transportation, gas, auto repair and insurance \$ \_\_\_\_\_
- k. Installment payments (list each below):
- | Paid to:  |          |
|-----------|----------|
| (1) _____ | \$ _____ |
| (2) _____ | \$ _____ |
| (3) _____ | \$ _____ |
- l. Wages/earnings withheld by court order \$ \_\_\_\_\_
- m. Any other monthly expenses (list each below):
- | Paid to:  |          | How Much? |
|-----------|----------|-----------|
| (1) _____ | \$ _____ |           |
| (2) _____ | \$ _____ |           |
| (3) _____ | \$ _____ |           |

**Total monthly expenses (add 11a – 11m above):** \$ \_\_\_\_\_

## INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS

If you have been sued or if you wish to sue someone, or if you are filing or have received a family law petition, and if you cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs *and* your court fees, you may ask the court to waive all or part of your court fees.

1. To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001). If you qualify, the court will waive all or part of its fees for the following:
  - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
  - Making and certifying copies
  - Sheriff's fee to give notice
  - Court fees for telephone hearings
  - Reporter's daily fee (*for up to 60 days after the grant of the fee waiver, at the court-approved daily rate*)
  - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
  - Giving notice and certificates
  - Sending papers to another court department
  - Having a court-appointed interpreter in small claims court
2. You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The court will consider waiving fees for items such as the following, or other court services you need for your case:
  - Jury fees and expenses
  - Fees for court-appointed experts
  - Reporter's daily fees (*beyond the 60-day period after the grant of the fee waiver, at the court-approved daily rate*)
  - Fees for a peace officer to testify in court
  - Court-appointed interpreter fees for a witness
  - Other necessary court fees
3. If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees, Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO).

### IMPORTANT INFORMATION!

- **You are signing your request under penalty of perjury. Please answer truthfully, accurately, and completely.**
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court within five days if your finances improve or if you become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) with the court.) You may be ordered to repay any amounts that were waived after your eligibility came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.
- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases. (Government Code, section 68637(d), (e).))
- **If you settle your civil case for \$10,000 or more:** Any trial court waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you are not eligible for a fee waiver.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time.

# Request to Waive Additional Court Fees (Superior Court)

## CONFIDENTIAL

Clerk stamps date here when form is filed.

NOT APPROVED BY  
JUDICIAL COUNCIL

v.7 03.11.09

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and case name:

Case Number:

Case Name:

This form asks the court to waive *additional* court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a *Request to Waive Court Fees (Superior Court)*, form FW-001, along with this form.

### 1 Your Information (person asking the court to waive the fees):

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

### 2 Your lawyer, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): ☐ Yes ☐ No

b. (If yes, your lawyer must sign here):

Lawyer's signature: \_\_\_\_\_

If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

### 3 Date your last court fee waiver order, if any, was granted: \_\_\_\_\_

### 4 Has your financial situation improved since your last Request to Waive Court Fees? ☐ No ☐ Yes (If yes, you must fill out a new Request to Waive Court Fees, form FW-001, and attach it to this form.)

### 5 What other fees do you want your court fee waiver order to cover? (Check all that apply):

a. ☐ Jury fees and expenses

b. ☐ Court-appointed interpreter fees for a witness

c. ☐ Fees for a peace officer to testify in court

d. ☐ Reporter's daily fees (beyond 60-days after grant of a fee waiver, at court-approved daily rate)

e. ☐ Fees for court-appointed experts

f. ☐ Other (specify): \_\_\_\_\_

### 6 Why do you need these other services? (Explain): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

Print your name here

Sign here

# Order on Court Fee Waiver (Superior Court)

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL**

v.10 03.11.09

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and case name:

Case Number:

Case Name:

**1 Person who asked the court to waive court fees:**

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3 A request to waive court fees was filed on (date):** \_\_\_\_\_

☐ The court made a previous fee waiver order in this case on (date): \_\_\_\_\_

Read this form carefully. All checked boxes ☒ are court orders.

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**4 After reviewing your (check one):** ☐ Request to Waive Court Fees ☐ Request to Waive Additional Court Fees  
**the court makes the following orders:**

a. ☐ The court **grants** your request, as follows:

(1) ☐ **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (*Cal. Rules of Court, rule 3.55.*) You do not have to pay the court fees for the following:

- Filing papers in Superior Court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's daily fee (for up to 60 days following the fee waiver order at the court-approved daily rate)
- Preparing and certifying the clerk's transcript on appeal
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearings

(2) ☐ **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- ☐ Jury fees and expenses
- ☐ Fees for a peace officer to testify in court
- ☐ Fees for court-appointed experts
- ☐ Court-appointed interpreter fees for a witness
- ☐ Reporter's daily fees (beyond the 60-day period following the fee waiver order)
- ☐ Other (specify): \_\_\_\_\_

(3) ☐ **Fee Waiver for Appeal.** The court grants your request and waives the fees and costs checked below, for your appeal. (*Cal. Rules of Court, rules 3.55, 3.56, 8.26, and 8.818.*) You do not have to pay for the checked items.

- ☐ Preparing and certifying clerk's transcript for appeal
- ☐ Other (specify): \_\_\_\_\_

Case Number:

Your name: \_\_\_\_\_

- b. ☐ The court **denies** your request, as follows:

**Warning!** If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

- (1) ☐ The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date below) to:
- Pay your fees and costs, or
  - File a new revised request that includes the items listed below (*specify incomplete items*):

- (2) ☐ The court **denies** your request because the information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): \_\_\_\_\_

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)*, form FW-006. You have **10 days** after the clerk gives notice of this order (see date below) to:

- Pay your fees and costs, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

- c. ☐ The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*): \_\_\_\_\_

- ☐ Bring the following proof to support your request if reasonably available: \_\_\_\_\_

**Hearing  
Date** →

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Name and address of court if different from page 1: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Rm.: \_\_\_\_\_

**Warning!** If item c is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

Date: \_\_\_\_\_

Signature of (check one): ☐ Judicial Officer ☐ Clerk, Deputy



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

### Clerk's Certificate of Service

- I certify that I am not involved in this case and (*check one*): ☐ A certificate of mailing is attached.
- ☐ I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.
- ☐ This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):   <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO.:</div> </div> E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:  BRANCH NAME:	
PLAINTIFF/PETITIONER:  DEFENDANT/RESPONDENT:	
<b>ORDER ON APPLICATION FOR WAIVER OF ADDITIONAL COURT FEES AND COSTS (Cal. Rules of Court, rule 3.62)</b>	CASE NUMBER:

1. The application was filed on (date): ☐ A previous order was issued on (date):
2. The application was filed by (name):
3. ☐ IT IS ORDERED that the application is **granted** ☐ in whole ☐ in part (complete item 4 below).
- a. ☐ **No payments.** Payment of all the fees and costs listed in California Rules of Court, rule 3.62, **is waived.**
- b. ☐ **Applicant shall pay** all the fees and costs listed in California Rules of Court, rule 3.62, EXCEPT the following:
- (1) ☐ Jury fees and expenses. (5) ☐ Court-appointed experts.

(2) ☐ Court-appointed interpreter for witnesses. (6) ☐ Other fees and costs (specify):

(3) ☐ Witness fees of peace officers.

(4) ☐ Reporter's fees (beyond 60 days).
- c. **Method of payment.** Applicant shall pay all the fees and costs when charged, EXCEPT as follows:
- (1) ☐ Pay (specify): \_\_\_\_\_ percent.

(2) ☐ Pay: \$ \_\_\_\_\_ per month or more until the balance is paid.
- d. The clerk of the court, county financial officer, or appropriate county officer is authorized to require the applicant to appear before and be examined by the court no sooner than four months from the date of this order, and not more than once in any four-month period.
- ☐ The applicant is ordered to appear for the court's review of the applicant's financial status as follows:
- |       |       |        |       |
|-------|-------|--------|-------|
| Date: | Time: | Dept.: | Room: |
|-------|-------|--------|-------|
- e. ☐ The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.
- f. **All unpaid fees and costs shall be deemed to be taxable costs if applicant is entitled to costs and shall be a lien on any judgment recovered by the applicant and shall be paid directly to the clerk by the judgment debtor upon such recovery.**
4. ☐ IT IS ORDERED that the application is **denied** ☐ in whole ☐ in part for the following reasons (see Cal. Rules of Court, rules 3.50–3.63):
- a. ☐ Monthly household income exceeds guidelines (Gov. Code, § 68511.3(a)(6)(B); form FW-001-INFO).

b. ☐ Other (Complete line 4b on page 2).

c. The applicant shall pay any fees and costs due in this action within 10 days from the date of service of this order or any paper filed by the applicant with the clerk will be of no effect.

d. The clerk is directed to mail a copy of this order to all parties who have appeared in this action.
5. ☐ IT IS ORDERED that a **hearing** be held.
- a. The substantial evidentiary conflict to be resolved by the hearing is (specify):

b. **Applicant should be present** at the hearing to be held as follows:

Date:	Time:	Dept.:	Room:
-------	-------	--------	-------

c. The address of the court is (specify):

☐ Same as above

d. The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.

Date: ☐ \_\_\_\_\_ JUDICIAL OFFICER ☐ Clerk, by \_\_\_\_\_, Deputy

(Clerk may GRANT in full a nondiscretionary fee waiver; see Cal. Rules of Court, rule 3.56.)

PLAINTIFF/PETITIONER (Name):	CASE NUMBER:
DEFENDANT/RESPONDENT (Name):	

4b ☐ Application is denied in whole or in part (*specify reasons*):

### CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at  
(place): \_\_\_\_\_, California,  
on (date): \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

### CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

(SEAL)



# Notice: Waiver of Court Fees (Superior Court)

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL  
v.8 03.11.09**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and case name:

Case Number:

Case Name:

## 1 Person who asked the court to waive court fees:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone number: \_\_\_\_\_

## 2 Lawyer, if person in 1 has one: (name, address, phone number, e-mail, and State Bar number):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 3 Your Request to Waive Court Fees was filed on (date):

\_\_\_\_\_

## 4 Your request is **granted** by operation of law because no court action was taken within five days after it was filed. A fee waiver is granted for the following court fees and costs (Cal. Rules of Court, rule 3.55):

- Filing papers
- Giving notice and certificates
- Sending papers to another court department
- Reporter's daily fee (for up to 60 days after the date of this notice, at the court-approved daily rate)
- Court fee for phone hearing
- Preparing, certifying, copying, and sending the clerk's transcript on appeal.
- Making copies and certifying copies
- Sheriff's fee to give notice
- Court-appointed interpreter in small claims court

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

## Clerk's Certificate of Service

I certify that I am not involved in this case and (check one): ☐ A certificate of mailing is attached.

☐ I handed a copy of this notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.

☐ This notice was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in 1 and 2, from (city): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL****v.6 03.11.08**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and case name:

Case Number:

Case Name:

**1 Your Information** (person who asked the court to waive court fees):

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**2 Your lawyer**, if you have one (name, address, phone number, e-mail, and State Bar number): \_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**3 Date of order** denying your request to waive court fees  
(month/day/year): \_\_\_\_\_☐ (Check here if you have a copy of the order denying your request, and attach it to this form.)**4** I ask the court for a hearing on my fee waiver request so that I can bring more information about my financial situation.**5** ☐ The additional facts that support my request for a fee waiver are (describe):  
(Use this space if you want to tell the court in advance what facts you want considered at the hearing. If the space below is not enough, attach form MC-025. Or attach a sheet of paper and write Additional Facts and your name and case number at the top. You may also attach copies of documents you want the court to look at. )\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Print your name here

**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, form MC-410.

Clerk stamps date here when form is filed.

NOT APPROVED BY  
JUDICIAL COUNCIL

v.6 03.11.09

Fill out court name and street address:

Superior Court of California, County of

Fill in case number and case name:

Case Number:

Case Name:

**1 Person who asked for the hearing:**

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**2 Lawyer**, if person in **1** has one (name, address, phone number, e-mail, and State Bar number): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3** The court received your request for a hearing about your court fees on (date): \_\_\_\_\_**Read this form carefully. All checked boxes ☒ are court orders.**

- 4** ☐ The court grants your request for a hearing on your eligibility for a fee waiver. **Go to your court hearing** on the date below. You may bring information about your financial situation to the hearing.

Hearing  
Date

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Dept.: \_\_\_\_\_

Rm.: \_\_\_\_\_

Name and address of court if different from above:

**5** ☐ The court **denies** your request for a hearing because (check all that apply):

- a. ☐ The hearing request was not filed within ten days after the clerk gave notice of the denial of the request for a fee waiver. (Government Code section 68634(g).)
- b. ☐ No request to waive fees has been denied by the court in your action.
- c. ☐ Other (explain): \_\_\_\_\_

Date \_\_\_\_\_

Signature of (check one): ☐ Judicial Officer ☐ Clerk, Deputy

**Request for Accommodations:** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for Request for Accommodation, Form MC-410.

**Clerk's Certificate of Service**I certify that I am not involved in this case and (check one): ☐ A certificate of mailing is attached.☐ I handed a copy of this notice to the party and attorney, if any, listed in **1** and **2**, at the court, on the date below.☐ This notice was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in **1** and **2**, from (city): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

# Order on Court Fee Waiver After Hearing (Superior Court)

**CONFIDENTIAL**

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL  
v.9 03.11.09**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

**1 Person who asked the court to waive court fees:**

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):** \_\_\_\_\_**3 A request to waive court fees was filed (date):** \_\_\_\_\_**4 There was a hearing on (date):** \_\_\_\_\_

at (time): \_\_\_\_\_ in (Department): \_\_\_\_\_

The following people were at the hearing (check all that apply):

☐ Person in 1 ☐ Lawyer in 2☐ Others (names): \_\_\_\_\_**Read this form carefully. All checked boxes ☒ are court orders.**

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**5 After reviewing your (check one): ☐ Request to Waive Court Fees ☐ Request to Waive Additional Court Fees the court makes the following order:**a. ☐ The court **grants** your request and waives your court fees and costs as follows:**(1) ☐ Fee Waiver.** The court **grants** your request and waives your court fees and costs listed below (*Cal. Rules of Court, rule 3.55.*) You do not have to pay the court fees for the following:

- Filing papers in superior court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's daily fee (*for up to 60 days after the grant of the fee waiver, at the court-approved daily rate*)
- Preparing and certifying the clerk's transcript on appeal
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearing

**(2) ☐ Additional Fee Waiver.** The court **grants** your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- ☐ Jury fees and expenses
- ☐ Fees for court-appointed experts
- ☐ Reporter's daily fees (*beyond the 60-day period after grant of the fee waiver, at court-approved daily rate*)
- ☐ Other (specify): \_\_\_\_\_
- ☐ Fees for a peace officer to testify in court
- ☐ Court-appointed interpreter fees for a witness

**(3) ☐ Fee Waiver for Appeal.** The court **grants** your request and waives the fees and costs checked below, for your appeal. (*Cal. Rules of Court, rules 8.26 and 8.18.*) You do not have to pay for the checked items.

- ☐ Preparing and certifying clerk's transcript for appeal
- ☐ Other (specify): \_\_\_\_\_

<b>Case Name:</b> _____	<b>Case Number:</b> _____
-------------------------	---------------------------

- b. ☐ The court **denies** your request and **will not waive or reduce** your fees and costs.
- (1) The reason for this denial is as follows:
- (a) ☐ Your request is incomplete, and you did not provide the information that the court requested (*specify items missing*): \_\_\_\_\_
- (b) ☐ You did not go to court on the hearing date to provide the information the court needed to make a decision.
- (c) ☐ The information you provide shows that you are not eligible for the fee waiver you requested because (*check all that apply*):
- i. ☐ Your income is too high.
- ii. ☐ Other (*explain*): \_\_\_\_\_
- (d) ☐ There is not enough evidence to support a fee waiver.
- (e) ☐ Other (*state reasons*): \_\_\_\_\_
- (2) ☐ You may pay some court fees and costs over time. You may make monthly payments of \$ \_\_\_\_\_ beginning (*date*): \_\_\_\_\_ and then payable on the 1st of each month after that, until the fees checked below are paid in full:
- (a) ☐ Filing fees.
- (b) ☐ Other (*describe*): \_\_\_\_\_
- You must pay all other court fees and costs as they are due.
- c. ☐ The court **partially grants** your request so you can pay court fees without using money you need to pay for your household's basic needs. You are ordered to pay a portion of your fees, **as checked below**. The court only partially grants the request because (*state reasons for partial denial*): \_\_\_\_\_

- (1) ☐ You must pay \_\_\_\_\_ % of your court fees.
- (2) ☐ The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- |  |   |
|--|---|
| <input type="checkbox"/> Filing papers at superior court<br><input type="checkbox"/> Sheriff's fee to give notice<br><input type="checkbox"/> Court-appointed interpreter<br><input type="checkbox"/> Reporter's daily fee up to 60 days after order<br><input type="checkbox"/> Jury fees and expenses<br><input type="checkbox"/> Court-appointed experts' fees<br><input type="checkbox"/> Making certified copies<br><input type="checkbox"/> Other ( <i>describe</i> ): _____ | <input type="checkbox"/> Giving notice and certificates<br><input type="checkbox"/> Sending papers to another court department<br><input type="checkbox"/> Court-appointed interpreter fees for a witness<br><input type="checkbox"/> Reporter's daily fees beyond the 60 days after initial order<br><input type="checkbox"/> Fees for a peace officer to testify in court<br><input type="checkbox"/> Court fees for telephone hearings |
|--|---|
- (3) ☐ Other (*specify*): \_\_\_\_\_

**Warning! If b or c above are checked:** You have **10 days** after the clerk gives notice of this order (see date below) to pay your fees as ordered, unless there is a later date for beginning payments in item b(2). If you do not pay, your court papers will not be processed. If the papers are a notice of appeal, your appeal may be dismissed.

Date: \_\_\_\_\_ \_\_\_\_\_  
*Signature of Judicial Officer*

### Clerk's Certificate of Service

- I certify that I am not involved in this case and (*check one*): ☐ A certificate of mailing is attached.
- ☐ I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.
- ☐ This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

Clerk stamps date here when form is filed.

NOT APPROVED BY  
JUDICIAL COUNCIL

v.7 03.11.09

Fill out court name and street address:

Superior Court of California, County of

Fill out case number and case name:

Case Number:

Case Name:

**1 Your Information** (*person with a fee waiver*):

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**2 Your lawyer**, if you have one (*name, address, phone number, e-mail, and State Bar number*): \_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_**3** Date of your **last** court fee waiver order in this case:  
(*date*) \_\_\_\_\_

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**4** ☐ My financial situation has changed since the date of the last court fee waiver order in a way that improves my ability to pay fees. I ask the court to do one of the following:a. ☐ **End** my fee waiver because my financial situation has improved and I am able to pay my court fees and costs that are due after (*date*): \_\_\_\_\_ .b. ☐ **Review** my updated financial information in the attached *Request to Waive Court Fees*. I believe I am still eligible for a fee waiver. (*Complete form FW-001 and attach to this form.*)**5** ☐ My case has settled for (*check one*) ☐ less than \$10,000 ☐ \$10,000 or more (*if so, complete a and b below.*)a. I (*check one*) ☐ have ☐ have not received the proceeds of the settlement.

b. The name and address of the party who has agreed to pay the settlement:

\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*\_\_\_\_\_  
*Sign here*

# Notice to Appear for Reconsideration of Fee Waiver

Clerk stamps date here when form is filed.

**Draft v.5 02.14.08**

**NOT APPROVED BY  
JUDICIAL COUNCIL**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

**Warning:** If you do not go to the hearing on the date and time below, the court may cancel your fee waiver.

**1 Name of person who asked the court to waive court fees:**

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Lawyer, if person in 1 has one: (Name, address, phone number, e-mail, and State Bar number):** \_\_\_\_\_

**3 The court has information that (check all that apply):**

a. ☐ Your financial situation may have changed, or you may no longer be eligible for a fee waiver because (explain): \_\_\_\_\_

b. ☐ You may be increasing the costs of your case unnecessarily. The fee waiver for the court services you are using may be limited because (explain): \_\_\_\_\_

c. ☐ Your case is coming to an end, and the court requires some information about your eligibility to have your court fees waived.

**4 You must go to court on the date below:**

**Hearing  
Date** →

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Dept.: \_\_\_\_\_

Rm.: \_\_\_\_\_

Name and address of court if different from above: \_\_\_\_\_

☐ Bring the following information if reasonably available: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of (check one): ☐ Judicial Officer ☐ Clerk, Deputy



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, form MC-410. (Civil Code, § 54.8.)

## Clerk's Certificate of Service

I certify that I am not involved in this case and (check one): ☐ A certificate of mailing is attached.

☐ I handed a copy of this notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.

☐ This notice was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in 1 and 2, from (city): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

# Order on Court Fee Waiver After Reconsideration Hearing (Superior Court)

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL**

v.8 03.11.09

**1 Name of person who asked the court to waive court fees:**

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Name of lawyer**, if person in **1** has one (*name, address, phone number, e-mail, and State Bar number*): \_\_\_\_\_

**3** The court made a previous fee waiver order in this case on (*date*): \_\_\_\_\_

**4** The court sent you a notice to go to court about your fee waiver on (*date*): \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in case number and case name:

Case Number: \_\_\_\_\_

Case Name: \_\_\_\_\_

**Read this form carefully. All checked ☒ boxes are court orders.**

**5** There was a hearing on (*date*): \_\_\_\_\_  
at (*time*): \_\_\_\_\_ in (*Department*): \_\_\_\_\_

The following people were at the hearing (*check all that apply*):☐ Person in **1** ☐ Lawyer in **2**☐ Others (*names*): \_\_\_\_\_

**6** After considering the information provided at the hearing, **the court makes the following order:**

a. ☐ **No Change to Fee Waiver.** The *Order on Court Fee Waiver* issued by this court on (*date*): \_\_\_\_\_ remains in effect. No change is made at this time.

b. ☐ **Fee Waiver Is Ended as of (*date*):** \_\_\_\_\_. The court finds that beginning on that date you were no longer eligible for a fee waiver because: \_\_\_\_\_

(1) You must pay all court fees in this case from the date of this order.

(2) ☐ You must also pay the court \$ \_\_\_\_\_ for fees that were initially waived after you were no longer eligible.

(a) ☐ You must pay that amount within 10 days of this order.

(b) ☐ You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (*date*): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.

c. ☐ **Fee Waiver Is Retroactively Withdrawn.** The court finds that you were never entitled to a fee waiver in this case because: \_\_\_\_\_

(1) You must pay all court fees in this case from the date of this order.

(2) ☐ You must also pay the court \$ \_\_\_\_\_ for fees that the court initially waived.

(a) ☐ You must pay that amount within 10 days of this order.

(b) ☐ You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (*date*): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.



Case Number:

Your name: \_\_\_\_\_

6 d. ☐ **Fee Waiver Is Modified.** The court finds that you obtained the initial fee waiver in bad faith, for an improper purpose, or to needlessly increase the costs of litigation. The court places the following limitations on the fee waiver that was granted to you:

- (1) ☐ You must pay all court fees in this case from the date of this order.
- (2) ☐ From the date of this order, only the following court fees will be waived (*court to check all that apply*).


**You must pay for all court fees that are not checked below:**

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Filing papers at superior court  | <input type="checkbox"/> Making certified copies  | <input type="checkbox"/> Giving notice and certificates |
| <input type="checkbox"/> Sheriff's fee to give notice   | <input type="checkbox"/> Sending papers to another court department                           |   |
| <input type="checkbox"/> Court-appointed interpreter  | <input type="checkbox"/> Court-appointed interpreter fees for a witness                       |   |
| <input type="checkbox"/> Reporter's daily fee ( <i>up to 60 days after date of fee waiver</i> ) | <input type="checkbox"/> Reporter's daily fees ( <i>beyond 60 days after the fee waiver</i> ) |   |
| <input type="checkbox"/> Jury fees and expenses   | <input type="checkbox"/> Fees for a peace officer to testify in court                         |   |
| <input type="checkbox"/> Court-appointed expert's fees  | <input type="checkbox"/> Court fees for telephone hearings                                    |   |
| <input type="checkbox"/> Other ( <i>specify</i> ): _____  |   |   |

(3) ☐ Other modification: \_\_\_\_\_  
\_\_\_\_\_

e. ☐ **Other Order:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

 \_\_\_\_\_  
*Signature of Judge or Judicial Officer*

### Clerk's Certificate of Service

- I certify that I am not involved in this case and (*check one*): ☐ A certificate of mailing is attached.
- ☐ I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.
- ☐ This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

FOR COURT USE ONLY

TELEPHONE NO.:

FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name):

**DRAFT  
v 8 03.11.09****NOT APPROVED  
BY JUDICIAL  
COUNCIL****SUPERIOR COURT OF CALIFORNIA, COUNTY OF**

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PLAINTIFF/PETITIONER:

DEFENDANT/RESPONDENT:

**REQUEST FOR DISMISSAL**

- ☐ **Personal Injury, Property Damage, or Wrongful Death**  
☐ **Motor Vehicle** ☐ **Other**  
☐ **Family Law** ☐ **Eminent Domain**  
☐ **Other (specify) :**

CASE NUMBER:

**- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -****1. TO THE CLERK: Please dismiss this action as follows:**

- a. (1) ☐ With prejudice (2) ☐ Without prejudice  
b. (1) ☐ Complaint (2) ☐ Petition  
(3) ☐ Cross-complaint filed by (name):  
(4) ☐ Cross-complaint filed by (name):  
(5) ☐ Entire action of all parties and all causes of action  
(6) ☐ Other (specify):\*

on (date):

on (date):

**2. (Complete in all cases except family law cases.)**

- ☐ Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

(SIGNATURE)

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-Complainant

**3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\***

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):  
5. ☐ Dismissal entered on (date): as to only (name):  
6. ☐ Dismissal **not entered** as requested for the following reasons (specify):

7. a. ☐ Attorney or party without attorney notified on (date):  
b. ☐ Attorney or party without attorney not notified. Filing party failed to provide  
☐ a copy to be conformed ☐ means to return conformed copy

Date:

Clerk, by \_\_\_\_\_, Deputy

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

### Declaration Concerning Waived Court Fees

The court has a statutory lien for waived fees and costs on any recovery of \$10,000 or more in value by settlement, compromise, arbitration award, mediation settlement, or other recovery. The court's lien must be paid before the court will dismiss the case.

1. The court waived fees and costs in this action for *(name)*: \_\_\_\_\_
2. The person in item 1 *(check one)*: \_\_\_\_\_
  - a. ☐ is not recovering anything of value by this action.
  - b. ☐ is recovering less than \$10,000 in value by this action.
  - c. ☐ is recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. ☐ All court fees and costs that were waived in this action have been paid to the court *(check one)*: ☐ Yes ☐ No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)

(SIGNATURE)

# SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

**DRAFT v.7 03.11.09**

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**NOT APPROVED BY  
JUDICIAL COUNCIL**

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

CASE NUMBER:  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE:  
(Fecha)

Clerk, by  
(Secretario)

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

# SUMMONS Cross-Complaint (CITACION JUDICIAL-CONTRADEMANDA)

**NOTICE TO CROSS-DEFENDANT:  
(AVISO AL CONTRA-DEMANDADO):**

**YOU ARE BEING SUED BY CROSS-COMPLAINANT:  
(LO ESTÁ DEMANDANDO EL CONTRADEMANDANTE):**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**DRAFT v.6  
03.11.09**

**Not approved by  
Judicial Council**

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the cross-complainant. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.**

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al contrademandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), o uniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is:  
(El nombre y dirección de la corte es):

SHORT NAME OF CASE (from Complaint): (Nombre de Caso):

CASE NUMBER: (Número del Caso):

The name, address, and telephone number of cross-complainant's attorney, or cross-complainant without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del contrademandante, o del contrademandante que no tiene abogado, es):

DATE:  
(Fecha)

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual cross-defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">TELEPHONE NO.:</div> <div style="width: 45%;">FAX NO. (Optional):</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">E-MAIL ADDRESS (Optional):</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">ATTORNEY FOR (Name):</div> </div>	<b>FOR COURT USE ONLY</b> <b>(SOLO PARA USO DE LA CORTE)</b>  <b>DRAFT v.5 02.18.09</b>  <b>NOT APPROVED BY</b> <b>JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>SUMMONS (JOINT DEBTOR) (CITACIÓN (DEUDOR CONJUNTO))</b>	CASE NUMBER: (Número del Caso):
<p><b>NOTICE!</b> You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.</p> <p>You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (<a href="http://www.courtinfo.ca.gov/selfhelp">www.courtinfo.ca.gov/selfhelp</a>), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.</p> <p>There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (<a href="http://www.lawhelpcalifornia.org">www.lawhelpcalifornia.org</a>), the California Courts Online Self-Help Center (<a href="http://www.courtinfo.ca.gov/selfhelp">www.courtinfo.ca.gov/selfhelp</a>), or by contacting your local court or county bar association. <b>NOTE:</b> The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.</p> <p><b>¡AVISO!</b> Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.</p> <p>Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (<a href="http://www.sucorte.ca.gov">www.sucorte.ca.gov</a>), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.</p> <p>Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (<a href="http://www.lawhelpcalifornia.org">www.lawhelpcalifornia.org</a>), en el Centro de Ayuda de las Cortes de California, (<a href="http://www.sucorte.ca.gov">www.sucorte.ca.gov</a>) o poniéndose en contacto con la corte o el colegio de abogados locales. <b>AVISO:</b> Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.</p>	

1. TO THE DEFENDANT (name):

(AL DEMANDADO):

You are hereby directed to file in this court, within **30** days after this summons is served on you, a written response to the Declaration or Affidavit accompanying this summons, giving any legal reason why you should not be required to pay the unpaid amount of: \$ \_\_\_\_\_ on the judgment rendered by this court on (date): \_\_\_\_\_ against (name each): \_\_\_\_\_

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)	<p>2. <b>NOTICE TO THE PERSON SERVED:</b> You are served</p> <p>a. <input type="checkbox"/> as an individual defendant.</p> <p>b. <input type="checkbox"/> as the person sued under the fictitious name of (specify): _____</p> <p>c. <input type="checkbox"/> on behalf of (specify): _____</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           under: <input type="checkbox"/> CCP 416.10 (corporation)  <input type="checkbox"/> CCP 416.20 (defunct corporation)  <input type="checkbox"/> CCP 416.40 (association or partnership)  <input type="checkbox"/> other (specify): _____         </div> <div style="width: 45%;"> <input type="checkbox"/> CCP 416.60 (minor)  <input type="checkbox"/> CCP 416.70 (conservatee)  <input type="checkbox"/> CCP 416.90 (authorized person)         </div> </div> <p>d. <input type="checkbox"/> by personal delivery on (date): _____</p>
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# SUMMONS (CITACION JUDICIAL)

## UNLAWFUL DETAINER—EVICTION

### (RETENCIÓN ILÍCITA DE UN INMUEBLE—DESALOJO)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

v.7 03.11.09

**NOT APPROVED BY  
JUDICIAL COUNCIL**

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

1. The name and address of the court is:  
(El nombre y dirección de la corte es):

CASE NUMBER:  
(Número del caso):

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

3. (Must be answered in all cases) An **unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415)** ☐ did **not** ☐ did for compensation give advice or assistance with this form. (If plaintiff has received **any** help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date:  
(Fecha)

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

4. **NOTICE TO THE PERSON SERVED:** You are served

- a. ☐ as an individual defendant.  
b. ☐ as the person sued under the fictitious name of (specify):  
c. ☐ as an occupant  
d. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ CCP 415.46 (occupant) ☐ other (specify):

5. ☐ by personal delivery on (date):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

6. **Unlawful detainer assistant** *(complete if plaintiff has received any help or advice for pay from an unlawful detainer assistant):*

- a. Assistant's name:
- b. Telephone no.:
- c. Street address, city, and zip:
  
- d. County of registration:
- e. Registration no.:
- f. Registration expires on *(date)*:



# SUMMONS (CITACION JUDICIAL)

## STORAGE LIEN ENFORCEMENT

### (CUMPLIMIENTO DE EMBARGO DE BIENES ALMACENADOS)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**DRAFT v.7 03.11.09**

**NOT APPROVED BY  
JUDICIAL COUNCIL**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 10 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 10 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

CASE NUMBER:  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE:  
(Fecha)

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

#### NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
 under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

# SUMMONS (CITACION JUDICIAL)

## ENFORCEMENT OF STATE HOUSING LAW (CUMPLIMIENTO DE LA LEY DE VIVIENDA ESTATAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**DRAFT v.6 03.11.09**

**NOT APPROVED BY  
JUDICIAL COUNCIL**

You have 10 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

*Tiene 10 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is:  
(El nombre y dirección de la corte es):

CASE NUMBER:  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)

### NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

[SEAL]

**SUMMONS (Family Law)****CITACIÓN (Derecho familiar)****NOTICE TO RESPONDENT (Name):****AVISO AL DEMANDADO (Nombre):****You are being sued. Lo están demandando.**FOR COURT USE ONLY  
(SÓLO PARA USO DE LA CORTE)**Draft 7 3/13/09 gds****Not approved by the  
Judicial Council****Petitioner's name is:****Nombre del demandante:**

CASE NUMBER (NÚMERO DE CASO):

You have **30 calendar days** after this *Summons* and *Petition* are served on you to file a *Response* (form FL-120 or FL-123) at the court and have a copy served on the petitioner. A letter or phone call will not protect you.

If you do not file your *Response* on time, the court may make orders affecting your marriage or domestic partnership, your property, and custody of your children. You may be ordered to pay support and attorney fees and costs. If you cannot pay the filing fee, ask the clerk for a fee waiver form.

If you want legal advice, contact a lawyer immediately. You can get information about finding lawyers at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), or by contacting your local county bar association.

**Tiene 30 días corridos** después de haber recibido la entrega legal de esta Citación y Petición para presentar una Respuesta (formulario FL-120 ó FL-123) ante la corte y efectuar la entrega legal de una copia al demandante. Una carta o llamada telefónica no basta para protegerlo.

Si no presenta su Respuesta a tiempo, la corte puede dar órdenes que afecten su matrimonio o pareja de hecho, sus bienes y la custodia de sus hijos. La corte también le puede ordenar que pague manutención, y honorarios y costos legales. Si no puede pagar la cuota de presentación, pida al secretario un formulario de exención de cuotas.

Si desea obtener asesoramiento legal, póngase en contacto de inmediato con un abogado. Puede obtener información para encontrar a un abogado en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en el sitio Web de los Servicios Legales de California ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)) o poniéndose en contacto con el colegio de abogados de su condado.

**NOTICE:** The restraining orders on page 2 are effective against both spouses or domestic partners until the petition is dismissed, a judgment is entered, or the court makes further orders. These orders are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of them.

**AVISO:** Las órdenes de restricción que figuran en la página 2 valen para ambos cónyuges o pareja de hecho hasta que se despida la petición, se emita un fallo o la corte dé otras órdenes. Cualquier autoridad de la ley que haya recibido o visto una copia de estas órdenes puede hacerlas acatar en cualquier lugar de California.

**NOTE:** If a judgment or support order is entered, the court may order you to pay all or part of the fees and costs that the court waived for yourself or for the other party. If this happens, the party ordered to pay fees shall be given notice and an opportunity to request a hearing to set aside the order to pay waived court fees.

**AVISO:** Si se emite un fallo u orden de manutención, la corte puede ordenar que usted pague parte de, o todas las cuotas y costos de la corte previamente exentas a petición de usted o de la otra parte. Si esto ocurre, la parte ordenada a pagar estas cuotas debe recibir aviso y la oportunidad de solicitar una audiencia para anular la orden de pagar las cuotas exentas.

1. The name and address of the court are (*El nombre y dirección de la corte son*):
2. The name, address, and telephone number of the petitioner's attorney, or the petitioner without an attorney, are:  
(*El nombre, dirección y número de teléfono del abogado del demandante, o del demandante si no tiene abogado, son*):

Date (*Fecha*):Clerk, by (*Secretario, por*) \_\_\_\_\_, Deputy (*Asistente*)

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served**AVISO A LA PERSONA QUE RECIBIÓ LA ENTREGA:** Esta entrega se realiza

- a. ☐ as an individual. (*a usted como individuo.*)
- b. ☐ on behalf of respondent who is a (*en nombre de un demandado que es*):
- (1) ☐ minor (*menor de edad*)
- (2) ☐ ward or conservatee (*dependiente de la corte o pupilo*)
- (3) ☐ other (*specify*) (*otro – especifique*):

**(Read the reverse for important information.) (Lea importante información al dorso.)**

Page 1 of 2

### **WARNING—IMPORTANT INFORMATION**

**WARNING:** California law provides that, for purposes of division of property upon dissolution of a marriage or domestic partnership or upon legal separation, property acquired by the parties during marriage or domestic partnership in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language in the deed that characterizes how title is held (i.e., joint tenancy, tenants in common, or community property) will be controlling, and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.

### **STANDARD FAMILY LAW RESTRAINING ORDERS**

**Starting immediately, you and your spouse or domestic partner are restrained from**

1. Removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court;
2. Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their minor child or children;
3. Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life; and
4. Creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. Before revocation of a nonprobate transfer can take effect or a right of survivorship to property can be eliminated, notice of the change must be filed and served on the other party.

You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, you may use community property, quasi-community property, or your own separate property to pay an attorney to help you or to pay court costs.

### **ADVERTENCIA – INFORMACIÓN IMPORTANTE**

**ADVERTENCIA:** De acuerdo a la ley de California, las propiedades adquiridas por las partes durante su matrimonio o pareja de hecho en forma conjunta se consideran propiedad comunitaria para los fines de la división de bienes que ocurre cuando se produce una disolución o separación legal del matrimonio o pareja de hecho. Si cualquiera de las partes de este caso llega a fallecer antes de que se divida la propiedad comunitaria de tenencia conjunta, el destino de la misma quedará determinado por las cláusulas de la escritura correspondiente que describen su tenencia (por ej., tenencia conjunta, tenencia en común o propiedad comunitaria) y no por la presunción de propiedad comunitaria. Si quiere que la presunción comunitaria quede registrada en la escritura de la propiedad, debería consultar con un abogado.

### **ÓRDENES DE RESTRICCIÓN NORMALES DE DERECHO FAMILIAR**

**En forma inmediata, usted y su cónyuge o pareja de hecho tienen prohibido:**

1. Llevarse del estado de California a los hijos menores de las partes, si los hubiera, sin el consentimiento previo por escrito de la otra parte o una orden de la corte;
2. Cobrar, pedir prestado, cancelar, transferir, deshacerse o cambiar el nombre de los beneficiarios de cualquier seguro u otro tipo de cobertura, tal como de vida, salud, vehículo y discapacidad, que tenga como beneficiario(s) a las partes y su(s) hijo(s) menor(es);
3. Transferir, gravar, hipotecar, ocultar o deshacerse de cualquier manera de cualquier propiedad, inmueble o personal, ya sea comunitaria, cuasicomunitaria o separada, sin el consentimiento escrito de la otra parte o una orden de la corte, con excepción las operaciones realizadas en el curso normal de actividades o para satisfacer las necesidades de la vida; y
4. Crear o modificar una transferencia no testamentaria de manera que afecte el destino de una propiedad sujeta a transferencia, sin el consentimiento por escrito de la otra parte o una orden de la corte. Antes de que se pueda eliminar la revocación de una transferencia no testamentaria, se debe presentar ante la corte un aviso del cambio y hacer una entrega legal de dicho aviso a la otra parte.

Cada parte tiene que notificar a la otra sobre cualquier gasto extraordinario propuesto, por lo menos cinco días laborales antes de realizarlo, y rendir cuenta a la corte de todos los gastos extraordinarios realizados después de que estas órdenes de restricción hayan entrado en vigencia. No obstante, puede usar propiedad comunitaria, cuasicomunitaria o suya separada para pagar a un abogado o para ayudarle a pagar los costos de la corte.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name and address</i> ):           TELEPHONE NO.: _____ FAX NO. ( <i>optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	FOR COURT USE ONLY           <b>Draft 11 3/13/09 gds Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	CASE NUMBER: _____
PETITIONER/PLAINTIFF: _____  RESPONDENT/DEFENDANT: _____  OTHER: _____	
<b>ORDER TO PAY WAIVED COURT FEES AND COSTS (Superior Court)</b>	

1. This proceeding was heard as follows: ☐ Default or uncontested ☐ By declaration under Family Code section 2336  
☐ Contested
- on (*date*): \_\_\_\_\_ at (*time*): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- a. by Judge (*name*): \_\_\_\_\_ ☐ Temporary Judge  
 b. ☐ Petitioner/plaintiff present ☐ Attorney present (*name*): \_\_\_\_\_  
 c. ☐ Respondent/defendant present ☐ Attorney present (*name*): \_\_\_\_\_  
 d. ☐ Other present ☐ Attorney present (*name*): \_\_\_\_\_  
 e. On the order to show cause or motion filed (*date*): \_\_\_\_\_ by (*name*): \_\_\_\_\_
2. **THE COURT FINDS**
- a. The court made an order waiving court fees and costs for ☐ petitioner ☐ respondent in this matter on (*date*): \_\_\_\_\_
- b. ☐ The court made an order for support payable by ☐ petitioner ☐ respondent to ☐ petitioner ☐ respondent on (*date*): \_\_\_\_\_
- c. After considering information in the court file and other evidence, ☐ petitioner ☐ respondent has the ability to pay all or part of the waived court fees and costs.
3. **THE COURT ORDERS**
- a. ☐ Petitioner ☐ Respondent must pay ☐ his or her own ☐ the other party's previously waived court fees in the total amount of (*specify*): \_\_\_\_\_
- b. Payment be made:
- (1) \_\_\_\_\_ per month until paid in full, beginning (*date*): \_\_\_\_\_
- (2) ☐ Within 10 days from the date of service of this *Order to Pay Waived Court Fees* (see attached *Proof of Service*).
- (3) After all current support and accrued support arrears have been paid (if ordered to pay the other party's waived court fees). (*Government Code, § 68637(d).*)
- (4) ☐ Other (*specify*): \_\_\_\_\_
- c. Payment be sent to (*specify*): \_\_\_\_\_

PETITIONER:	CASE NUMBER:
RESPONDENT:	

## 4. NOTICE TO:

- ☐ Petitioner ☐ Respondent ☐ , Initial fee waiver recipient, ordered to pay waived court fees and costs.
- ☐ Petitioner ☐ Respondent ☐ , Support obligor ordered to pay the initial fee waiver recipient's waived court fees and costs.
- ☐ The party ordered to pay fees and costs who did not receive the initial fee waiver AND was not present at the trial or hearing when the court ordered payment of waived court fees and costs.

**YOU HAVE AN OPPORTUNITY FOR A HEARING TO REQUEST THAT  
THE COURT SET ASIDE THE ORDER TO PAY WAIVED COURT FEES AND COSTS**

- a. To request a hearing, complete and file with the court clerk:
  - (1) *Notice of Motion* (form FL-301) or *Order to Show Cause* (form FL-300) and
  - (2) *Application to Set Aside Order to Pay Waived Court Fees and Costs—Attachment* (form FL-337)
- b. The forms specified in a. must be completed and filed with the court clerk within 30 days from the date of service of this *Order to Pay Waived Court Fees and Costs* (see attached Proof of Service).
- c. In addition, the party requesting the hearing must serve the other party with
  - (1) Copies of the documents in a. filed with the court, and
  - (2) A **blank** *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320).
 You can obtain these forms from the clerk of the court, your county law library, or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).
- d. If a request for hearing is filed with the court clerk within the time specified in b., the order to pay waived court fees and cost will not be enforced until after the hearing.

**WARNING: The court has ordered you to pay court fees and costs. If you do not pay the court fees and costs, the court can institute collection proceedings and charge you interest and a collection fee.**

Date:

---

 Signature of Judicial Officer

PETITIONER: RESPONDENT:	CASE NUMBER:
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## APPLICATION TO SET ASIDE ORDER TO PAY WAIVED COURT FEES—ATTACHMENT

Attachment to ☐ *Notice of Motion* (form FL-301) ☐ *Order to Show Cause* (form FL-300)

- I am the ☐ petitioner ☐ respondent. I request that the court set aside the *Order to Pay Waived Court Fees*.
- In making this request, I ask the court to consider the information in the court's case file, the information attached to this application, the information specified in the supporting declaration, and the evidence presented at the hearing.

## NOTICE

To request a hearing, the party must complete and file with the court clerk the following: (1) *Notice of Motion* (form FL-301) or *Order to Show Cause* (form FL-300) and (2) *Application to Set Aside Order to Pay Waived Court Fees—Attachment (Family Law)* (form FL-337). These forms must be completed and filed with the court clerk within 30 days from the date of personal service of the *Order to Pay Waived Court Fees* **OR** within 35 days from the date the *Order to Pay Waived Court Fees* was served by mail.

In addition, the party requesting the hearing must serve the other party with (1) Copies of the above-listed documents filed with the court and (2) A **blank** *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320). You may obtain Judicial Council forms from the clerk of the court, at your county law library, or at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

If the request for hearing is filed with the court clerk within this time, the *Order to Pay Waived Court Fee* will not be enforced until after the hearing.

- The reasons in support of this request are (*specify*):  
☐ Supporting declarations attached. You may use *Attached Declaration* (form MC-031).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Date: \_\_\_\_\_
- \_\_\_\_\_  
JUDICIAL OFFICER



## INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES (SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk's transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called "waiving" these fees).

Who can get their court fees waived?

The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, SSI or SSP, County Relief/General Assistance, IHSS (In-Home Supportive Services), CalWORKS, Tribal Temporary Assistance for Needy Families, or CAPI (Cash Assistance Program for Aged, Blind, and Disabled).
- **You have a low income level.** Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,083.34	3	\$1,833.34	5	\$2,583.34
2	\$1,458.34	4	\$2,208.34	6	\$2,958.34

*If more than 6 people at home, add \$375 for each extra person.*

- **You do not have enough income to pay for your household's basic needs *and* your court fees.**

What fees and costs will the court waive?

If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, or a petition for review and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk's transcript on appeal and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk's transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk's transcript.

The court **cannot** waive the fees for preparing a reporter's transcript in a civil case. If you are represented by a lawyer in your appeal, a special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See Business and Professions Code sections 8030.2 and following for more information about this fund.) However, there is no financial help available for parties who are not represented by lawyers. If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** In a limited civil case, if the trial court already issued an order waiving your court fees *and that fee waiver has not ended* (fee waivers automatically end 60 days after the judgment), your fee for filing a notice of appeal and your costs for the clerk's transcript are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed), the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk's transcript or telephonic oral argument, are due.

## INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES (SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **Appeal in Other Civil Cases.** If you are the appellant (the party who is appealing) in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; your costs for the clerk's transcript are already waived, just give the court a copy of your current fee waiver). The completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent (a party other than the appellant in a case that is being appealed) and the trial court already issued an order waiving your court fees *and that fee waiver has not ended*, your costs for the clerk's transcript are already waived; just give the trial court a copy of your current fee waiver. If you have not already received a fee waiver in the case or you had a fee waiver but it ended, to request waiver of the fee for a copy of the clerk's transcript, you must complete a *Request to Waive Court Fees* (form FW-001) and file it in the trial court with your request for a copy of the transcript. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). The completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office.
- **Petition for Review.** If you want to request that the Supreme Court waive the fee for filing a petition for review, you must complete a *Request to Waive Court Fees* (form FW-001). You should submit the completed form with your petition for review.

For more information about appeals and writ proceedings, see *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO), *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001), and *Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases* (form APP-150-INFO).

### IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL****v. 11 3.19.09**Court of Appeal or Supreme Court  
Case Number:

Appellate District, Division Number:

**1 Person who asked the court to waive court fees:**

Name: \_\_\_\_\_

Street address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**2 Lawyer, if person in 1 has one: (Name, address, phone number, e-mail,  
and State Bar number):** \_\_\_\_\_**3 On (date):** \_\_\_\_\_ **you filed a Request to Waive Court Fees (form  
FW-001).****4 The court reviewed your request and makes the following order:**

- a. ☐ The court **grants** your request and waives your court fees and costs listed below. You do not have to pay fees for the following:

- Filing notice of appeal, petition for writ, or petition for review

☐ Other (*specify*): \_\_\_\_\_

- b. ☐ The court **denies** your request for the following reasons:

- (1) ☐ Your request is incomplete. You have **10 days** from the date this notice was sent to:

- Pay your fees and costs, or
- File a new revised request that includes the items listed below (*specify incomplete items*):

\_\_\_\_\_

- (2) ☐ The information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): \_\_\_\_\_

\_\_\_\_\_

You have **10 days** from the date this notice was sent to:

- Pay your fees and costs, or
- File more information that shows you are eligible.

- (3) ☐ The court finds there is substantial question regarding your eligibility (*describe issue regarding eligibility*): \_\_\_\_\_

\_\_\_\_\_

You have **10 days** from the date this notice was sent to:

- Pay your fees and costs, or
- File the following additional documents to support your request:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Warning!** If you miss the deadline for paying your fees and costs or providing the additional items required by the court and you are the appellant, your appeal may be dismissed.

Court of Appeal/  
Supreme Court Case Name: \_\_\_\_\_

Court of Appeal/Supreme Court  
Case Number: \_\_\_\_\_

- ④ c. ☐ The court needs more information. **You must go to court** on the date below.

**Hearing  
Date**

➤ Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_

Name and address of the court if different from page 1:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ Bring the following proof to support your request, if it is reasonably available:

\_\_\_\_\_  
\_\_\_\_\_

**Warning!** If item ④ c. is checked and you do not go to court on your hearing date, the court will deny your request to waive court fees and you will have **10 days** to pay your fees. If you are the appellant and you do not pay your filing fees, your appeal may be dismissed.

Date: \_\_\_\_\_

Signature of (check one): ☐ Judicial Officer ☐ Clerk, Deputy

**GENERAL INFORMATION****1 What does this information sheet cover?**

This information sheet tells you about appeals in limited civil cases. These are civil cases in which the amount of money claimed is \$25,000 or less.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the **APPELLANT**, and you should read Information for the Appellant, starting on page 2. If you received notice that another party in your case is appealing, you are called the **RESPONDENT** and you should read Information for the Respondent, starting on page 11.

This information sheet does not cover everything you may need to know about appeals in limited civil cases. It is meant only to give you a general idea of the appeal process. To learn more, you should read rules 8.800–8.843 and 8.880–8.891 of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).

**2 What is an appeal?**

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. **In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made:

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001)
- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)

You can get these forms at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”).

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the jury's or trial court's conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

**The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.**



### **3 Do I need a lawyer to represent me in an appeal?**

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must let the court know if your address, telephone number, or other contact information changes so that the court can contact you if needed.

### **4 Where can I find a lawyer to help me with my appeal?**

You have to hire your own attorney if you want one. You can get information about finding an attorney on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

## **INFORMATION FOR THE APPELLANT**

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 11 of this information sheet.

### **5 Who can appeal?**

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person’s guardian or conservator).

### **6 Can I appeal *any* decision the trial court made?**

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. Code of Civil Procedure section 904.2 lists a few types of orders in a limited civil case that can be appealed right away. These include orders that:

- Change or refuse to change the place of trial (venue)
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum
- Grant a new trial or deny a motion for judgment notwithstanding the verdict
- Discharge or refuse to discharge an attachment or grant a right to attach
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction
- Appoint a receiver
- Are made after final judgment in the case

(You can get a copy of Code of Civil Procedure section 904.2 at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html).)

### **7 How do I start my appeal?**

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to prepare a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).



**8 How do I “serve and file” the notice of appeal?**

“Serve and file” means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver (“serve”) the notice of appeal to the other party or parties in the way required by law.
- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail or in person), and the date the notice of appeal was served.
- Bring or mail the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

**9 Is there a deadline to file my notice of appeal?**

Yes. In a limited civil case, except in the very limited circumstances listed in rule 8.823, you must file your notice of appeal within **30 days** after the trial court clerk mails or a party serves either a document called a “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within 90 days after entry of the judgment, whichever is earlier. **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

**10 Do I have to pay to file an appeal?**

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look at Government Code section 70621. (You can get a copy of this law at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html).) If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a ***Request to Waive Court Fees*** (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

**11 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?**

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money or to deliver property to another party (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. In most cases, other than unlawful detainer cases in which the trial court’s judgment gives a party possession of the property, if the trial court denies your request for a stay, you can apply to the appellate division for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

**12 What do I need to do after I file my notice of appeal?**

You must ask the clerk of the trial court to prepare and send the official record of what happened in the trial court in your case to the appellate division.

Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the appellate division for its review. You can use *Notice*



*Designating Record on Appeal (Limited Civil Case)* (form APP-103) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. “Serving and filing” this notice means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver (“serve”) the notice to the other party or parties in the way required by law.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail or in person), and the date the notice was served.
- Bring or mail the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving)

### **13 What is the official record of the trial court proceedings?**

There are three parts of the official record:

- a. A record of the documents filed in the trial court (other than exhibits)
- b. A record of what was said in the trial court (this is called the “oral proceedings”)

- c. Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

Read below for more information about these parts of the record.

#### **a. Record of the documents filed in the trial court**

The first part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the appellate division:

- (1) A *clerk’s transcript*
- (2) The original *trial court file* or
- (3) An *agreed statement*

Read below for more information about these options.

#### **(1) Clerk’s transcript**

**Description:** A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court.

**Contents:** Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript. These documents are listed in rule 8.832(a) of the California Rules of Court and in *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103).

If you want any documents other than those listed in rule 8.832(a) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form APP-103 to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.





If you—the appellant—request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk’s transcript.

**Cost:** The appellant is responsible for paying for preparing a clerk’s transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk’s transcript. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a **Request to Waive Court Fees** (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

**Completion and delivery:** After the cost of preparing the clerk’s transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and forward the original clerk’s transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.

## **(2) Trial court file**

**When available:** If the court has a local rule allowing this, the clerk can send the appellate division the original trial court file instead of a clerk’s transcript (see rule 8.833 of the California Rules of Court).

**Cost:** As with a clerk’s transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a **Request to Waive Court Fees** (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

**Completion and delivery:** After the cost of preparing the trial court file has been paid or waived, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.

## **(3) Agreed statement**

**Description:** An agreed statement is a summary of the trial court proceedings agreed to by the parties (see rule 8.836 of the California Rules of Court).

**When available:** If you and the respondent agree to this, you can use an agreed statement instead of a clerk’s transcript. To do this, you must attach to your agreed statement all of the documents that are required to be included in a clerk’s transcript. If you choose this alternative, you must file with your notice designating the record on appeal either the agreed statement or a written agreement with the respondent (a “stipulation”), stating that you are trying to



agree on a statement. Within the next 30 days, you must then file the agreed statement or tell the court that you were unable to agree on a statement and file a new notice designating the record.

**b. Record of what was said in the trial court (the “oral proceedings”)**

The second part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the “oral proceedings”). You do not *have* to send the appellate division a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of those oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what was said in the trial court.**

In a limited civil case, you can use *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form APP-103 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

There are four ways in which a record of the oral proceedings can be prepared for the appellate division:

- (1) If you or the other party arranged to have a court reporter there during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- (2) If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the court has a local rule permitting this and you and the other party agree (“stipulate”) to this, you can use the *official electronic recording* itself instead of a transcript.
- (3) You can use an *agreed statement*.
- (4) You can use a *statement on appeal*.

Read below for more information about these options.

**(1) Reporter’s transcript**

**Description:** A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule 8.834 of the California Rules of Court establishes the requirements relating to reporter’s transcripts.

**When available:** If a court reporter was there in the trial court and made a record of the oral proceedings, you can choose (“elect”) to have the court reporter prepare a reporter’s transcript for the appellate division. In most limited civil cases, however, a court reporter will not have been there unless you or another party in your case made specific arrangements to have a court reporter there. Check with the court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

**Contents:** If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want to be included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed without a reporter’s transcript, however, the



respondent may not designate a reporter's transcript without first getting an order from the appellate division.

**Cost:** The appellant is responsible for paying for preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit payment for this cost with the trial court clerk within 10 days after this notice is sent.

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. If you are represented by a lawyer in your appeal, a special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. However, there is no financial help available for parties who are not represented by lawyers. If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a statement on appeal, which are described below.

**Completion and delivery:** After the cost of preparing the reporter's transcript has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. The trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter's transcript will also be mailed to the respondent.

## **(2) Official electronic recording or transcript**

**When available:** In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. If your case was officially recorded, you can choose ("elect") to have a transcript prepared from the recording. Check with the trial court to see if the oral proceedings in your case were officially electronically recorded before you choose this option. If the court has a local rule permitting this and all the parties agree ("stipulate"), a copy of an official electronic recording itself can be used as the record, instead of preparing a transcript. If you

choose this option, you must attach a copy of this agreement ("stipulation") to your notice designating the record on appeal.

**Cost:** The appellant is responsible for paying for preparing this transcript or making a copy of the official electronic recording. If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a **Request to Waive Court Fees** (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this application to determine if you are eligible for a fee waiver.

**Completion and delivery:** After the estimated cost of the transcript or official electronic recording has been paid or waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send it to the appellate division.

## **(3) Agreed statement**

**Description:** An agreed statement is a written summary of the trial court proceedings agreed to by all the parties.

**When available:** If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose ("elect") to use an agreed statement as the record of the oral proceedings (please note that it may take more of your time to prepare an agreed statement than to use either a reporter's transcript or official electronic recording, if they are available).

**Contents:** An agreed statement must explain what the trial court case was about, describe why the appellate division is the right court to consider an appeal in this case (why the appellate division has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal. The statement should include only those facts that you and the other parties think are needed to decide the appeal.



**Preparation:** If you elect to use this option, you must file the agreed statement with your notice designating the record on appeal or, if you and the other parties need more time to work on the statement, you can file a written agreement with the other parties (called a “stipulation”) stating that you are trying to agree on a statement. If you file this stipulation, within the next 30 days you must either file the agreed statement or tell the court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

#### **(4) Statement on appeal**

**Description:** A statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term “judge” includes commissioners and temporary judges).

**When available:** If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose (“elect”) to use a statement on appeal as the record of the oral proceedings (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter’s transcript or official electronic recording, if they are available).

**Contents:** A statement on appeal must include a summary of the oral proceedings that the appellant believes necessary for the appeal and a summary of the trial court’s decision. It must also include a statement of the points the appellant is raising on appeal (see rule 8.837 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules)).

**Preparing a proposed statement:** If you elect to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Limited Civil Case)* (form APP-104) to prepare your proposed statement. You can get

form APP-104 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

**Serving and filing a proposed statement:** You must serve and file the proposed statement with the trial court within 20 days after you file your notice designating the record. “Serve and file” means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver (“serve”) the proposed statement to the respondent in the way required by law.
- Make a record that the proposed statement has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail or in person), and the date the proposed statement was served.
- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and about proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

**Review and modifications:** The respondent has 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the respondent and makes any corrections or modifications to the statement that are needed to make sure that the statement provides a complete and accurate summary of the trial court proceedings.



**Completion and certification:** If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review. If you disagree with anything in the judge's statement, you have 10 days from the date the statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes any additional corrections to the statement, and certifies the statement as a complete and accurate summary of the trial court proceedings.

**Sending statement to the appellate division:** Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with any record of the documents filed in the trial court.

### **c. Exhibits**

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk's transcript unless you ask that they be included in your notice designating the record on appeal. *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103), includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the appellate division at the time briefs are filed (see rule 8.843 for more information about this procedure and see below for information about briefs).

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk's transcript or sent to the appellate division, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

### **14 What happens after the official record has been prepared?**

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send you a notice telling you when you must file your brief in the appellate division.

### **15 What is a brief?**

**Description:** A "brief" is a party's written description of the facts in the case, the law that applies, and the party's argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).

**Contents:** If you are the appellant, your brief, called an "appellant's opening brief," must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk's transcript and the reporter's transcript (or the other forms of the record you are using) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits so do not include any new evidence in your brief.

**Serving and filing:** You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. "Serve and file" means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver ("serve") the brief to the other parties in the way required by law.
- Make a record that the brief has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show



who served the brief, who was served with the brief, how the brief was served (by mail or in person), and the date the brief was served.

- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and about proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

**If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.**

### **16 What happens after I file my brief?**

Within 30 days after you serve and file your brief, the respondent may, but is not required to, respond by serving and filing a respondent's brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent files a brief, within 20 days after the respondent's brief was filed, you may, but are not required to, file another brief replying to the respondent's brief. This is called a "reply brief."

### **17 What happens after all the briefs have been filed?**

Once all the briefs have been filed or the time to file them has passed, the appellate division will notify you of the date for oral argument in your case.

### **18 What is "oral argument?"**

"Oral argument" is the parties' chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that

you want to "waive" oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

### **19 What happens after oral argument?**

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

### **20 What should I do if I want to give up my appeal?**

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called "abandoning") your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form APP-106) to file this notice in a limited civil case. You can get form APP-106 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).



**INFORMATION FOR THE RESPONDENT**

This section of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

**21 I have received a notice of appeal from another party. Do I need to do anything?**

You do not *have* to do anything. The notice of appeal simply tells you that another party is appealing the trial court's decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/](http://www.courtinfo.ca.gov/selfhelp/lowcost/).

**22 If the other party appealed, can I appeal too?**

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to file this notice in a limited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 2 of this information sheet, if you are considering filing a cross-appeal.

**23 Is there a deadline to file a cross-appeal?**

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 30 days after mailing or service of Notice of Entry of the judgment or a file-stamped copy of the

judgment) or within 10 days after the clerk of the trial court mails notice of the first appeal, whichever is later.

**24 I have received a notice designating the record on appeal from another party. Do I need to do anything?**

You do not *have* to do anything. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the appellate division. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record
- Participate in preparing the record *or*
- Ask for a copy of the record

Look at the appellant's notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question 13 above. Then read below for what your options are when the appellant has chosen that form of the record.

**(a) Clerk's transcript**

If the appellant is using a clerk's transcript, you have the option of asking the clerk to include additional documents in the clerk's transcript. To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk's transcript.

Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent. If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at



[www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit payment for the cost or obtain a fee waiver.

### **(b) Reporter's transcript**

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit this amount with the court within 10 days after the clerk's notice was sent. The reporter will not prepare a copy of the reporter's transcript for you unless you pay this deposit.

If the appellant elects not to use a reporter's transcript, you may not designate a reporter's transcript without first getting an order from the appellate division.

### **(c) Agreed statement**

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files its notice designating the record.

### **(d) Statement on appeal**

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings

that is approved by the trial court), the appellant will send you a proposed statement to review. You will have 10 days from the date the appellant sent you this proposed statement to serve and file suggested changes (called "amendments") that you think are needed to make sure that the statement provides a complete and accurate summary of the trial court proceedings. "Serve and file" means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver ("serve") the proposed amendments to the appellant in the way required by law.
- Make a record that the proposed amendments have been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail or in person), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

## **25 What happens after the official record has been prepared?**

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When



the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A brief is a party's written description of the facts in the case, the law that applies, and the party's argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).

The appellant serves and files the first brief, called an “appellant’s opening brief.” You may, but are not required to, respond by serving and filing a respondent’s brief within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver (“serve”) the brief to the other parties in the way required by law.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail or in person), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

If you do not file a respondent’s brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

If you file a respondent’s brief, the appellant then has an opportunity to serve and file another brief within 20 days replying to your brief.

### **26 What happens after all the briefs have been filed?**

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date for oral argument in your case.

“Oral argument” is the parties’ chance to explain their arguments to appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide the appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in the appeal or ask the judges if they have any questions you could answer.

After oral argument is held (or the scheduled date passes if all parties waive argument), the judges of the appellate division will make a decision about the appeal. The appellate division has 90 days after oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division’s decision.

## Instructions

- This form is only for choosing (“designating”) the record on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).
- This form can be attached to your notice of appeal. If it is not attached to your notice of appeal, you must serve and file this form within 10 days after you file your notice of appeal. **If you do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center site at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Clerk stamps date here when form is filed.

**NOT APPROVED BY  
JUDICIAL COUNCIL**

**v.2 3.19.09**

You fill in the name and street address of the court that issued the judgment or order you are appealing:

**Superior Court of California, County of**

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

**Trial Court Case Number:**

**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

**Appellate Division Case Number:**

## 1 Your Information

- a. Name of appellant (the party who is filing this appeal):

\_\_\_\_\_

- b. Appellant’s contact information (*skip this if the appellant has a lawyer for this appeal*):

Street address: \_\_\_\_\_  
Street
City
State
Zip

Mailing address (*if different*): \_\_\_\_\_  
Street
City
State
Zip

Phone: (     ) \_\_\_\_\_ E-mail (*optional*): \_\_\_\_\_

- c. Appellant’s lawyer (*skip this if the appellant does not have a lawyer for this appeal*):

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street
City
State
Zip

Mailing address (*if different*): \_\_\_\_\_  
Street
City
State
Zip

Phone: (     ) \_\_\_\_\_ E-mail (*optional*): \_\_\_\_\_

Fax (*optional*): (     ) \_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

Trial Court Case Number: \_\_\_\_\_

## Information About Your Appeal

- ② On (fill in the date): \_\_\_\_\_ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

## Record of the Documents Filed in the Trial Court

- ③ I elect (choose)/My client elects to use the following record of the documents filed in the trial court (check a or b and fill in any required information):

- a. ☐ **Clerk's Transcript.** (Fill out (1)–(4).) Note that, if the court has adopted a local rule permitting this, the clerk may prepare and send the original court file to the appellate division instead of a clerk's transcript.

- (1) **Required documents.** The clerk will automatically include the following items in the clerk's transcript but you must provide the date each document was filed:

Document Title and Description	Date of Filing
(1) Notice of appeal	
(2) Notice designating record on appeal (this document)	
(3) Judgment or order appealed from	
(4) Notice of entry of judgment (if any)	
(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (if any)	
(6) Ruling on any item included under 5	
(7) Register of actions or docket	
(8) Any transcript furnished to the jury or tendered to the court under rule 2.1040.	

- (2) **Additional documents.** If you want any documents in addition to the required documents listed above to be included in the clerk's transcript, you must identify those documents here.

- ☐ I would like the clerk to include in the transcript the following documents that were filed in the trial court. (Identify each document you want included by its title and provide the date it was filed, if you know it.)

Document Title and Description	Date of Filing
(1)	
(2)	
(3)	
(4)	
(5)	

- ☐ Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write "APP-103, item 3a(2)."



Trial Court Case Name: \_\_\_\_\_

③ a. (continued)

(3) **Exhibits.**

- ☐ I would like the clerk to include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the trial court. (*For each exhibit, give the exhibit number (such as Plaintiff's #1 or Defendant's A) and a brief description of the exhibit and indicate whether or not the court admitted the exhibit into evidence. If the trial court has returned a designated exhibit to a party, the party who has that exhibit must deliver it to the trial court clerk as soon as possible.*)

Exhibit Number	Description	Admitted Into Evidence	
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No

- ☐ Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-103, item 3a(3)."

(4) **Payment for clerk's transcript.** (Check a or b.)

- (a) ☐ I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of the transcript. I understand that if I do not pay for the transcript, it will not be prepared and provided to the appellate division.
- (b) ☐ I am asking that the clerk's transcript be provided at no cost to me because I cannot afford to pay this cost. I have attached (*check (i) or (ii) and attach the checked document*):
- (i) ☐ An order granting a waiver of the cost under rules 3.50–3.58
- (ii) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58 (use *Request to Waive Court Fees* (form FW-001))

**OR**

- b. ☐ **Agreed statement.** (*You must complete item ⑤d below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in 3a(1) above and in rule 8.832 of the California Rules of Court.*)

**Record of Oral Proceedings in the Trial Court**

*You do not have to provide the appellate division with a record of what was said in the trial court (this is called a record of the "oral proceedings"). But, if you do not, the appellate division will not be able to consider what was said during the trial court proceedings in deciding whether a legal error was made in those proceedings.*

④ I elect (choose)/My client elects to proceed (*check a or b*):

- a. ☐ **WITHOUT** a record of the oral proceedings in the trial court (*skip ⑤; sign and date this form*). I understand that if I elect to proceed without a record of the oral proceedings in the trial court the appellate division will not be able to consider what was said during those proceedings in determining whether a legal error was made.

(Write initials here): \_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

**4** (continued)

- b. ☐ **WITH** a record of the oral proceedings in the trial court (*complete item 5 below*). I understand that, if I elect (choose) to proceed **WITH** a record of the oral proceedings in the trial court, I have to choose the record I want to use and take the actions described below to make sure that this record is provided to the appellate division. I understand that if I do not take the actions described below and the appellate division does not receive this record, I am not likely to succeed in my appeal.

(Write initials here): \_\_\_\_\_

**5** I want to use the following record of what was said in the trial court proceedings in my case (*check and complete only one of the following below—a, b, c, d, or e*):

- a. ☐ **Reporter's Transcript.** *This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. (Complete (1) and (2)):*

- (1) **Designation of proceedings to be included in reporter's transcript.** I would like the following proceedings in the trial court to be included in the reporter's transcript. (*You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings [for example the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions], and, if you know it, the name of the court reporter who recorded the proceedings.*)

Date	Department	Description	Court Reporter's Name
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			
(7)			

- ☐ *Check here if you need more space to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write "APP-103, item 5a."*

- (2) **Payment for reporter's transcript.** I will pay the trial court clerk's office for this transcript myself when I receive the court reporter's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.

(Write initials here): \_\_\_\_\_

**OR**

Trial Court Case Name: \_\_\_\_\_

5 (continued)

- b. ☐ **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. (Check and complete (1) or (2)):*
- (1) ☐ I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of the transcript. I understand that if I do not pay for the transcript, it will not be prepared and provided to the appellate division.
- (2) ☐ I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have attached (*check (a) or (b) and attach the appropriate document*):
- (a) ☐ An order granting a waiver of the cost under rules 3.50–3.58
- (b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58 (*use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

OR

- c. ☐ **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division authorizing parties to use the official electronic recording itself as the record of the court proceedings, and all of the parties have agreed (stipulated) that they want to use the recording itself as the record of what was said in the case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of your agreement (stipulation) with the other parties to this notice. (Check and complete (1) or (2)):*
- (1) ☐ I will pay the trial court clerk for this copy of the recording myself when I receive the clerk's estimate of the costs of this copy. I understand that if I do not pay for this copy of the recording, it will not be prepared and provided to the appellate division.
- (2) ☐ I am asking that a copy of the recording be provided at no cost to me because I cannot afford to pay this cost. I have attached (*check (a) or (b) and attach the appropriate document*):
- (a) ☐ An order granting a waiver of the cost under rules 3.50–3.58
- (b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58 (*use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

OR

- d. ☐ **Agreed Statement.** I want to use an agreed statement (a summary of the trial court proceedings agreed to by the parties) as the record of what was said in my case. (*Check (1) or (2)*):
- (1) ☐ I have attached an agreed statement to this notice.
- (2) ☐ All the parties have agreed in writing (stipulated) to try to agree on a statement (*you must attach a copy of this agreement (stipulation) to this notice*). I understand that, within 30 days after I file this notice, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.

Trial Court Case Name: \_\_\_\_\_

Trial Court Case Number:

5 (continued)

OR

e. ☐ **Statement on Appeal.** I want to use a statement on appeal (a summary of the trial court proceedings approved by the trial court) as the record of what was said in my case. (*Check (1) or (2):*):

- (1) ☐ I have attached my proposed statement on appeal to this notice of appeal. (*If you are not represented by a lawyer in this appeal, you must use Proposed Statement on Appeal (Limited Civil Case) (form APP-104) to prepare and file this proposed statement. You can get a copy of form APP-104 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).*)
- (2) ☐ I have NOT attached my proposed statement. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice and that if I do not file the proposed statement on time, the court may dismiss my appeal.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Signature of appellant or attorney*

## W09-01

**Civil: Fee Waiver Rules and Forms** (amend rules 3.50, 3.51, 8.100, 8.122, 8.821, 8.832, and 8.833 of the California Rules of Court; repeal rules 3.52, 3.53, 3.54, 3.55, 3.58, and 3.59; amend and renumber rules 3.56, 3.57, 3.60, 3.61, 3.62, and 3.63 as rules 3.52, 3.53, 3.54, 3.55, 3.56, and 3.58, respectively; and adopt new rules 3.57 and 8.102; revoke Judicial Council form FW-004; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-006, CIV-110, SUM-100, SUM-110, SUM-120, SUM-130, SUM-140, SUM-145, and FL-110; adopt forms FW-007, FW-008, FW-010, FW-011, FW-012, APP-015/FW-015, APP-015/FW-015-INFO, APP-016/FW-016, FL-336, FL-337, and FL-338)

All comments are verbatim unless indicated by an asterisk (\*). Most of these comments address several different rules or forms. The comments have been split and placed in the sections of the chart relating to the specific that rule or form addressed.

List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
1.	Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	AM	These new procedures impact the court's resources adding new noticing and hearing requirements. I am concerned that ultimately, few funds will be collected to offset the expense involved.  <i>See comments on specific provisions below.</i>	The committees note that the additional notice and hearing requirements are legislatively mandated.
2.	California Appellate Court Clerk's Association by Joseph Lane	NI	Our response is limited to the proposals as to Rules 8.100, 8.122, 8.832, 8.832 and forms APP-015 and APP-016. Though our recommendations affect the other forms and rules, their affect is minimal and we make no recommendation concerning those rules and forms.  Since it appears that it will not be possible to satisfy the needs of the trial courts and the appellate courts with one form, we recommend that there be a separate Form for use in the California Courts of Appeal and Supreme Court. That this form NOT be for use by the appellate division of the trial courts. Instead, the forms for use in the trial courts should be used in their appellate division.  This will lessen confusion, enable the appellate forms additional room for information that	The committees' responses are set forth in the section below on appellate rules and forms, beginning at page 180.  The committees have determined that a single application for use in all courts is appropriate. The proposed form FW-001 has been modified so that it may be used to request a waiver of fees in superior court, the Court of Appeal, or the Supreme Court.



**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>applies solely to their courts and follow more closely the procedures in place in the trial courts, i.e. the fees in the appellate department are automatically waived if the trial court has granted a waiver.</p> <p><i>See comments on specific provisions below.</i></p>	
3.	California Association of Legal Document Assistants (CALDA) by Angie Walters Legislative Chairman Roseville, California	AM	California Association of Legal Document Assistants (“CALDA”), Legal Document Assistants (“LDAs”) request a space be created on Judicial Council forms for: name; address; tel.; regis no./exp.;County, which is required by B&PC 6400.	This comment was made by CALDA concerning all winter-cycle forms proposals. Staff to these and other advisory committees will consider CALDA’s comment and whether to make changes to any Judicial Council forms at a later time.
4.	Hon. Brett C. Klein Judge Superior Court of Los Angeles County	NI	<i>See comments on specific provisions below.</i>	See responses below to specific comments.
5.	Joseph Lane Clerk Court of Appeal, Second Appellate District	NI	<p>I would like to recommend that one uniform set of FORMS [sic] be adopted. Unfortunately, I am not sure of a way to modify the forms to insure that the needs of the trial court, courts of appeal and Supreme Court can be met without enlarging the forms beyond the preference of two pages.</p> <p>However, I do believe that it may be possible if we limit the information on the Initial Application for Waiver to just the information needed by the courts to effectively determine eligibility. As proposed, the forms include information for the applicant that is not necessary for the courts. E.g. the first two</p>	<p>The committees agree that a joint application form is appropriate. The proposed form FW-001 has been modified so that it may be used to request a waiver of fees in superior court, the Court of Appeal, or the Supreme Court. The separate application for waiver in the appellate court, proposed form APP-015/FW-015 has been deleted from the proposal.</p> <p>The committees note that the use of the information and general instructions at the beginning of the forms is a standard feature in forms developed in plain language format, which is the style used in Judicial Council forms such as the fee waiver forms that are primarily used by self-represented litigants.</p>

## W09-01

### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
			<p>paragraphs of form FW-001.</p> <p>Also, the proposed form includes information concerning counsel. Since the vast majority of applicants will not have counsel, it might be simpler to have a different form to be used by those who do have counsel, as well as having an area that is filled out by counsel. This would save a lot of space that would be better used.</p> <p>It is my understanding that the goal of the proposed changes is intended to make the following improvements to the court fee waiver process:</p> <ul style="list-style-type: none"><li>• Clarify eligibility requirements for fee waivers by including additional income-based entitlement programs to the list of programs in current law which provide categorical eligibility for a fee waiver.</li><li>• Set forth in statute the fee waiver application processing requirements that are currently contained in a rule of court in a manner consistent with the holding of the Court of Appeal in <i>Cruz v. Superior Court</i>, 120 Cal.App.4th 175.</li><li>• Clarify that applicants represented by non-legal services attorneys who are advancing the costs of the litigation must so indicate on their applications, and that the assets of the attorney must be considered in determining whether the waiver is necessary.</li><li>• Set forth with clarity the methods by which courts must seek to recover previously waived fees in appropriate</li></ul>	<p>The item on the application form for information concerning an applicant's counsel is mandated by statute. See Gov. Code, § 68633(g).</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>civil cases. These include a lien on settlement proceeds in excess of \$10,000 and a requirement that waived fees be added to a judgment in favor of a fee waiver recipient.</p> <ul style="list-style-type: none"> <li>• Establish specific procedures for recovery of waived fees in family law cases that require the court to re-evaluate the waiver at the disposition of the case and determine if either party has the ability to pay the fees to the court.</li> <li>• And, to note the important distinctions between fee waivers in the appellate courts and the trial courts. Specifically, I mean the lack of a right to a hearing or partial payment in the appellate courts. (By appellate courts I mean the Courts of Appeal and Supreme Court and do not believe that the legislation intended to include or encompass the superior court appellate divisions. A similar misunderstanding was made at the time that statewide funding for trial courts was implemented, but was later rectified.)</li> </ul> <p>Recognizing that, I do not believe each form has to have all the information that is currently proposed. I think it is reasonable to have this information along with the information on how to fill out each section of a form on an Information Sheet.</p> <p><i>See comments on specific provisions below.</i></p>	<p>The committees have concluded that notice concerning the items listed above should be included on the application forms.</p>

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
6.	Legal Aid Association of California by Leslie Alexander Staff Attorney & Program Manager San Francisco, California	AM	<p>LAAC is a non-profit organization founded in 1984 for the purpose of ensuring the effective delivery of legal services to low-income people throughout California. LAAC is the statewide membership organization for legal services programs. Our 2008 membership represents over 80 legal services nonprofits, as well as many individual attorneys working at such programs.</p> <p>Our members provide high-quality legal services to our state's most vulnerable populations. These services to low-income and other underrepresented individuals form an essential safety net in California and often ensure that the programs' clients have access to life's basic necessities, such as food, safe and affordable housing, freedom from violence, health care, employment, economic self-sufficiency, and access to the legal system.</p> <p>LAAC concurs with the comments submitted on behalf of the Legal Aid Foundation of Los Angeles, the Western Center on Law and Poverty, the Public Law Center of Orange County, Bet Tzedek Legal Services, and the Harriet Buhai Center for Family Law. Each of these organizations is a LAAC member program.</p> <p>LAAC supports all of the comments submitted on behalf of these member organizations.</p> <p><i>See comments on specific provisions below.</i></p>	<p>The committees appreciate the comments. See responses to specific comments below.</p>

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
7.	<p>Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California</p>	NI	<p>These comments are being submitted on behalf of the Legal Aid Foundation of Los Angeles, the Western Center on Law and Poverty, the Public Law Center of Orange County, Bet Tzedek Legal Services, and the Harriett Buhai Center for Family Law. Each of these organizations is a legal services program that assists low-income clients in the court system. Each organization is familiar with problems in the current fee-waiver system and is eager to see the rules and forms fulfill the promise of AB 2448 to simplify the fee-waiver process and “ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees.”</p> <p><i>See comments on specific provisions below.</i></p> <p><b>Additional General Comments</b> Several of the forms include notices regarding the possibility that the court will order the applicant to answer questions and pay back the money, and the requirement that applicants report change of circumstances and settlements. This notice appears on forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-010, and, in part, on all of the summons forms. This is excessive, and gives the impression of being punitive rather than informative. Section 68633 (e) requires such notice be given, but makes clear that including it on only the application satisfies the requirement. It should be deleted from all of the other forms, except possibly the information form.</p>	<p>See responses to specific comments below.</p> <p>The committees do not believe that that the notices are excessive. The notices are intended to be informative, not punitive.</p>

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			If the court decides to still include the notice box on forms FW-002, FW-003, FW-005, FW-008, and FW-010, the second sentence should be changed as noted in our comments to form FW-001.	See response below to specific comments to form FW-001. The notice box has been modified.
8.	Public Counsel Law Center by Lisa Jaskol Directing Attorney Los Angeles, California	NI	For the last two years, Public Counsel has operated California's first Appellate Self-Help Clinic at the Second Appellate District in downtown Los Angeles. At the clinic, an experienced appellate lawyer helps numerous unrepresented, indigent civil litigants navigate the appellate process. Based on Public Counsel's work with these litigants, we offer the following comments on the fee waiver proposals.  <i>See comments on specific provisions below.</i>	See responses to specific comments below.
9.	Benjamin G. Shatz Manatt, Phelps & Phillips, LLP Los Angeles, California	NI	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
10.	State Bar of California, Committee on Administration of Justice by Saul Bercovitz	NI	<b>Rules citations on forms.</b> The proposed new forms cite statutory authority but do not cite the governing California Rules of Court. CAJ believes that it would be helpful to cite the governing rules, consistent with most existing Judicial Council forms.  <b>Recommendation for additional rules and forms</b> Government Code section 68637(c)(1) states that the court "shall have a lien on any	The forms have been modified to add citations to the Rules of Court where applicable. The committees note, however, that several of the forms are now specifically authorized by statutory provisions rather than rules of court.

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			<p>settlement, compromise, award, or other recovery in the amount of all the court fees and costs initially waived” if the party whose fees were waived recovers \$10,000 or more “by way of settlement, compromise, arbitration award, mediation settlement, or other recovery” (§ 68637(c)). Section 68637(c)(3) states, “Notice of the lien shall be given to the parties under rules and on forms adopted by the Judicial Council, and the Judicial Council shall provide by rule the procedures by which a party subject to a lien may determine the amount of the lien.”</p> <p>Several of the proposed forms notify the party requesting fees that a lien may arise in certain circumstances. There apparently is no requirement, however, that any of those forms be served on other parties. The forms therefore would not satisfy the statutory requirement that “[n]otice of the lien shall be given to all parties . . . on forms adopted by the Judicial Council” (Gov. Code, § 68637(c)(1).) Moreover, the proposed forms provide only notice that a lien may arise. CAJ questions whether the statute should be construed to require notice that a lien has actually arisen and, perhaps, the amount of the lien. CAJ suggests two possible solutions. First, a rule could require the party obtaining a fee waiver to promptly notify all parties of the waiver, on a mandatory form. This would put all parties on notice of a potential lien, and any party could subsequently learn the amount of the lien by asking the court clerk pursuant to proposed rule 3.57. Alternatively, or in addition, a rule could require either the court or</p>	<p>The committees believe that the proposed notices are sufficient. A plaintiff whose fees are waived and whose recovery would be subject to a lien will receive notice via the fee waiver forms. A defendant in such a case will receive notice via an amended summons form. A case in which defendant, rather than plaintiff, is a fee waiver recipient would not involve a recovery by the fee waiver recipient, and so there is no need to provide notice of the lien to the plaintiff in such a case.</p> <p>The committee notes that the statute requires only that notice of a fee waiver award be provided to the applicant, not to all parties to an action. Requiring a fee waiver recipient to immediately notify the other party of receipt of a fee waiver could place the litigant at a disadvantage, especially at the beginning of a case.</p>

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			<p>the parties to the “settlement, compromise, arbitration award, mediation settlement, or other recovery” (§ 68637(c)) to notify all parties on a mandatory form that a lien has actually arisen and, perhaps, the amount of the lien. Either of these measures would help to ensure that the party paying the settlement, or other recovery, is aware of the lien and satisfies the lien before the party whose fees were waived receives anything of value under the settlement or other recovery.</p> <p><i>See comments on specific provisions below.</i></p>	<p>See responses to specific comments below.</p>
11.	State Bar of California, Standing Committee on the Delivery of Legal Services by Sharon Ngim Program Developer & Staff Liaison	NI	<p><u>Fee Waiver Order Should Include Interpreter Fees As Well As Others</u> We support the proposition that the Court Fee Waiver Order should include the waiver of court investigator fees, costs for copy of clerk’s transcript for appeals and court interpreter fees. Low and moderate-income litigants are deprived of true equal access to justice when they cannot afford to pay for services that are necessary in their case.</p> <p><u>Translation of Fee Waiver Forms</u> We recommend that the Judicial Council translate the fee waiver forms into the major non-English speaking languages. Non-English or limited-English speakers would greatly benefit from the translation of these forms in their native language. The translated document will be invaluable to the completion of its counterpart English form that will be filed with the Court. Just as the Income and Expense Declaration (FL-150) has been translated to assist family</p>	<p>The rules have been amended to clarify that copies of the clerk’s transcript are included. See proposed rule 3.55 and comments below. The committees have agreed to consider in a future cycle whether family court services investigators’ fees and any other fees should be added to the list of waived fees in rule 3.55.</p> <p>This proposal is beyond the scope of the current proposal, but the committees will consider it in the future as time and resources permit.</p>



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			law litigants prepare the English version of the form, the same should be done for the fee waiver forms that contain similar financial information.  <i>See comments on specific provisions below.</i>	See responses to specific comments below.
12.	Superior Court of Kern County Family Law Division--Metro by Marisol C. Alcantar Court Supervisor--Family Law Metro Bakersfield, California	AM	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
13.	Superior Court of Kings County by Krystina Cifuentes Deputy Court Administrator III Visalia, California	A	No specific comment.	The committees note the commentator's general agreement with the proposal.
14.	Superior Court of Los Angeles County	AM	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
15.	Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	AM	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
16.	Superior Court of Orange County by Mary Malk Probate/Mental Health Unit Manager Santa Ana, California	AM	The rule nor the forms appear to address probate needs. Recommend adding language to the instructions and/or the rule that addresses the issue that if it's a probate case (guardianship, conservatorship, decedent's estate, trust) the estate may be ordered to pay court fees and costs at a date well after the filing date - often at distribution. The fees should be able to be ordered waived or deferred as needed. The "assessment" or "investigation" fee should be listed as a possible court fee subject to the order	This comment addresses a matter outside the scope of the current proposal, which is intended to implement the rules and forms mandated by the new statute by the July 1, 2009, operative date. The fee waiver statute is generally applicable to probate fee waiver matters, and a petitioner in such matter may request a waiver. As resources permit, in the future the committees will consider whether additional rules or statutory provisions are needed to address recovery of waived fees in probate matters,

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			for waiver.  Example of probate fee issue: parties will try to avoid fees and have parent with no money file the petition, but pursuant to Probate Code 1513.1, the assessed fees may be collected from other than the filing party, but that cannot happen at the time of filing and fees should be determined for a later determination.	beyond the generally applicable recovery provisions in Government Code sections 68636 and 68637.
17.	Superior Court of Sacramento County by Chris Stewart Director, Research & Evaluation	NI	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
18.	Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	AM	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
19.	Superior Court of San Diego County by Mike Roddy Executive Officer	AM	<i>See comments on specific provisions below.</i>  Other questions:  1. What recourse does the court have when a party is given monthly payments on the initial fee waiver and he or she misses the last payment and several OSCs have been filed and heard? Does the original filing and the results of the OSCs become void?	See responses to specific comments below.  1. This inquiry is beyond the scope of this proposal. To the extent that commentator is proposing that a rule be promulgated or legislation be proposed on this point, the committees intend to develop rules regarding partial payments and fee waivers in the future as time and resources permit.

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			<p>2. On the old fee waiver application, there is an item that allows the judicial officer to make an order for paying a percentage and the amount of the monthly payments. The new request no longer has this option, but it is on the Court Fee Waiver Order After Hearing (FW-008). Does this mean that the judicial officer can only order this payment option if the party requests a hearing after receiving notice of the initial denial?</p> <p>3. If the court does find the information on a fee waiver request to be fraudulent, what action does the Judicial Council recommend the court take?</p> <p>4. If a party who was ordered to make payments does not complete the payments and submits a request for dismissal, can the court not enter the dismissal until payment is made in full?</p> <p>5. Does the hearing for both initial and reconsideration waivers have to be set within a certain time frame, or is the 10-days notice to</p>	<p>2. A partial grant of a fee waiver is by its nature a partial denial, and so must be treated as such under the new statute. If the application does not conclusively show that an applicant is not entitled to a fee waiver, the court must hold a hearing on the application, and a partial fee waiver may be granted at that hearing. Similarly, monthly payments may only be ordered after notice and hearing. (Gov. Code, § 68634(e)(5).)</p> <p>3. If the court has reason to question the veracity of information on a fee waiver application, the statute provides that the court is to set an eligibility hearing, and may require the applicant to provide reasonably available additional information concerning the truthfulness of the statements. (Gov. Code, § 68634(e)(4).) In addition, reconsideration and retroactive withdrawal of a fee waiver are authorized under the new statute. (Gov. Code, § 68636(b).)</p> <p>4. The statute only addresses dismissal prior to recovery of waived fees in actions in which there has been a recovery of \$10,000 or more. (Gov. Code, § 68637(c).) The committees intend to develop rules regarding partial payments and fee waivers in the future as time and resources permit.</p> <p>5. The provisions of the new statute do not appear to set a maximum time in which the hearing must be set, and no rule has been</p>

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			litigant the guideline to follow?	proposed setting one. The statute requires that the court provide at least ten days notice for a hearing to determine an initial fee waiver application. (Gov. Code, § 68634(e(5)).) A minimum of ten days notice is also required for a hearing to reconsider a fee waiver. (Gov. Code, § 68636(b).)
20.	Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	AM	<i>See comments on specific provisions below.</i>	See responses to specific comments below.
21.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC) Joint Rules Working Group by Patrick Danna AOC Staff	A	<i>See comments on specific provisions below.</i>  Plain language format increases the size of documents and is not recommended by the working group for court-generated documents such as orders and notices. Recommend re-formatting the proposed court fee waiver order and notice forms that are in plain language format (e.g. FW-003, FW-005, FW-011, etc.) in order to condense the size of the forms and minimize the number of pages. The working group expressed concern with the fact that converting forms to plain language format often results in more pages and in the aggregate will have a record storage and management cost impact.	See responses to specific comments below.  The Judicial Council has approved use of the plain language format for forms frequently used by self-represented litigants. The committees believe fee waiver forms will normally be completed or received by self-represented litigants and so should be in this format. The order and notice forms cited in this comment have all been kept to two pages in length.

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<b>Rule 3.50</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	One of the issues AB 2448 was intended to correct was the abuse by individual courts and judges of the procedures for granting and reconsidering fee waivers. Even though there is no authority for it, there are courts today that notify litigants on granting of a fee waiver that no final judgment will be entered without the fees being paid. For this reason, the regulations should give the courts clear direction. The last sentence of Rule 3.50 (a) gives the courts no parameters for when they “may” decide that waived fees need to be repaid. Just as the previous sentence of the proposed rule cites to Government Code section 6368, the final sentence should directly cite sections 68636 and 68637.	The rule has been modified in light of this comment, to include the requested statutory references.
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<u>Proposed Rule 3.50(a)</u> Proposed rule 3.50(a) states that “any waiver may later be ended, modified or revoked...” In order to conform more closely to the statutory language, CAJ believes the rule should be modified to state that “any waiver may later be ended, modified or <del>revoked</del> <u>retroactively withdrawn</u> ...” A similar change should be made to the advisory committee comments set forth in proposed rules 8.102 and 8.821.	The rule has been modified as requested in this comment.
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	<u>Rule 3.50</u> The change from using words and phrases that most of the public has a difficult time understanding is a good change. The idea of amending the verbiage to reflect “initial waiver of court fees and costs” will be beneficial. However, if the point is to provide an understanding that the waiver is not permanent, then possibly the average customer will not necessarily know that by the way it is worded. It may be better if additional language is added stating that the waiver is not permanent.	The committees believe the phrase “any waiver may later be ended, modified, or retroactively withdrawn” sufficiently describes the lack of permanence of the initial waivers.

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Rule 3.51		
Commentator	Comment	Committee Response
Superior Court of Los Angeles County Los Angeles, California	<u>Rule 3.51</u> – It is important to include in the rule that the Information Sheet must be provided together with the request for fee waivers.	The committees agree.

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<b>Rule 3.52</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	[In answer to question in ITC:] Should mandate continue that fee waiver requests be on JC Council forms—Yes. Alternatively, language could be added similar to the rules regarding use of Judicial Council forms in Juvenile matters.	Proposed rule 3.52 requires that fee waiver orders be on Judicial Council forms. The rule has been modified in response to comments to permit courts that have a computerized case management system to produce electronically generated orders, rather than use a Judicial Council paper form, so long as the orders are substantively identical to the Judicial Council form, containing all legally mandated elements and including the advisements and notices of the form it is replacing. The committees believe this proposed rule will permit courts to proceed efficiently, without prejudicing parties. In light of the on-going development of CCMS, which will permit issuance of orders identical to Judicial Council forms, the rule includes a termination date of 2013.
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	The discussion requests comment on whether courts with electronic case-management systems may produce their own orders, or whether the Judicial Council forms (FW-003 and FW-008) should be required. The Council has done an excellent job over the past few years of providing court forms that are written in plain English and formatted for maximum readability. Allowing court-prepared orders risks losing the careful work of the Council in drafting these forms. If the language and formatting can be preserved, while simplifying the process for the courts, we encourage this. Absent the protection of the readability, the forms should be required.	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<u>Proposed Rule 3.52</u> Comments are invited on whether the current mandate that the order determining an application for a fee waiver be on a Judicial Council form should continue in proposed rule 3.52, or whether an exception should be made for courts with electronic case management systems, permitting such courts to produce their own orders, so long as the orders contain all the substantive provisions on proposed Court Fee Waiver Order (Superior Court) (form FW-003) or Court Fee	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.

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<b>Rule 3.52</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	Waiver Order After Hearing (Superior Court) (form FW-008). CAJ recommends against such an exception and believes these orders should be uniform so as to ensure that the content is appropriate and to facilitate indexing and locating the documents in the court file.	
State Bar of California, Standing Committee on the Delivery of Legal Services by Sharon Ngim Program Developer & Staff Liaison	Current law mandates that the Fee Waiver Order (FW-003) be on a Judicial Council form. Courts should not be allowed to develop their own fee waiver orders, even if they include all the necessary substantive provisions. Allowing such an exception to current law would mean a lack of oversight and uniformity and risk of inconsistency from county to county. Self-represented litigants should not be subjected to seemingly different forms that may essentially mean the same thing. There is an even greater concern for limited or non-English speakers in that they may have difficulties understanding the orders. The Judicial Council should keep the forms simple for litigants to understand and follow.	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.
Superior Court of Los Angeles County Los Angeles, California	<u>Rule 3.52</u> - The court using electronic case management systems to produce its orders on fee waivers should be permitted to print and copy word for word those items (similar to Rule 2.150 regarding computer generated Proof of Service of Summons (form POS-101).	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	Should rule 3.52 include an exception for courts with electronic case management systems to permit such courts to produce their own orders?  Yes, and/or create a new rule for all orders and other forms generated from a court's case management system under similar circumstances.	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.
Superior Court of Sacramento County	Recommend exception for courts with electronic case management system to permit courts to produce own orders as	The committees have determined a limited exception should be made permitting court to produce fee waiver



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<b>Rule 3.52</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Chris Stewart Director, Research & Evaluation	long as they contain all the language from FW-003.	orders electronically. See response to comment of Grace Andres above.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	Should current requirement that fee waiver orders be on the JC form contain an exception to allow for electronic case management systems?  We would like to see the rule include an option to create the form electronically as long as the created form substantively complies with the Judicial Council form. Our current system may not be able to recreate that amount of text, but perhaps it can be updated or perhaps the statewide system will include that capability.	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	We agree that using Judicial Council forms should be mandatory. For courts with electronic case management systems they should be able to replicate the forms in some manner in their systems. The use of mandatory Judicial Council forms facilitates the staff when looking for the forms in a case file, especially when cases are transferred. And if someone from another department researches a file then the similar documents will stand out.	The committees have determined a limited exception should be made permitting court to produce fee waiver orders electronically. See response to comment of Grace Andres above.

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<b>Rule 3.54</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	<p>1. Should amended rule include specific standards for determining whether the confidential information be released and should there be provisions limiting the use of such information? Yes to both questions.</p> <p>2. Define the term “Court Personnel” to include individuals or agencies under contract? Yes</p>	<p>1. The committees believe that the “good cause” standard in proposed rule 3.54 is sufficient. In light of comments received, the rule has been modified to expressly provide that any order granting access to the confidential application information may include limitations on who may access the material and how it may be used.</p> <p>2. The committees have concluded that non-court personnel should not be granted routine access to the fee waiver applications. The statute expressly provides that the financial information provided on a fee waiver application is confidential, and limits access even within the court to “authorized court personnel.” The committees believe that expanding “authorized court personnel” to include off-site contractors, and thus permitting such contractors full access to and use of applicant’s financial information contained in court files, is inappropriate.</p> <p>The committees conclude that the rule should be implemented as proposed, requiring a noticed motion for access to such information by anyone other than authorized court personnel. The committees will refer to the Enhanced Collections Unit of the Administrative Office of the Courts the issue of whether and how access to confidential information in court files should be provided to court collection contractors.</p>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and	Section 68633 (f) states: “Financial information provided by an applicant shall be kept confidential by the court. <i>No person shall have access to the application except the court, authorized court personnel, and any person authorized by the applicant.</i> ” (emphasis added). This language determines the standards by which access should be permitted. It does not	<p>The committees believe the proposed rules are appropriate in light of the statutory mandate that the Judicial Council adopt procedures to consider requests seeking access to an applicant’s confidential financial information. (Gov. Code, § 68633(f).)</p> <p>The committees agree that court contractors should not</p>

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<b>Rule 3.54</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	allow access by anyone else, including court contractors. For that reason, the language of Rule 3.54 (a) regarding access as permitted by court order should be deleted, and Rule 3.54 (b) should be eliminated entirely.  The question raised in the Invitation to Comment regarding the uses of the information in the application is well-taken. We believe there should be a provision in Rule 3.54 forbidding use of the information for any purpose other than the court's ruling on the application for waiver and any reconsideration or review of that ruling. Any other use is inappropriate and violates the applicant's right of privacy.	be granted automatic access to the financial information. See response to Grace Andres' comment, part 2, above.  The committees concluded that access to the material for other purposes may sometimes be appropriate, but only where, following notice to the applicant, a court finds good cause. The rule has been modified to expressly authorize a court that has found good cause for access to the financial information may limit to whom the information may be shown and how it may be used.
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<u>Proposed Rule 3.54</u> Comments are invited on whether the rule should include (1) specific standards for determining whether the confidential information be released and (2) provisions limiting the use of such information upon release. CAJ believes there should be specific standards in the rules to guide parties and the courts. CAJ has no comment as to whether there should be provisions limiting the use of such information upon release.  Comments are also invited on whether the term "court personnel" should be defined for the purpose of this rule to include individuals or agencies under contract with a court to recover court fees and costs that were initially waived but later ordered paid by the court. CAJ recommends in favor of defining the term, in order to provide clarity.	See response to Grace Andres' comment, part 2, above.
Superior Court of Los Angeles County Los Angeles, California	<u>Rule 3.54</u> – There is no need to include in the rule specific standards for determining whether the confidential information be released and to include provisions limiting the use of such information upon release. The last sentence in the amended rule (No person may reveal any information contained in the application except as authorized by law.) is sufficient.	See response to Grace Andres' comment, part 1, above.

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<b>Rule 3.54</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	The definition of “court personnel” should not include individuals or agencies under contract with the court because they are not court personnel. Individuals or agencies, if authorized to have access to confidential information on the fee waiver application, would be “any persons authorized by the court.”	The committees agree that contractors are not court personnel and should not be defined as such. See response to Grace Andres’ comment, part 2, above. The committees note, however, that this comment misquotes the statute, which limits access to court personnel and “any person authorized by the <u>applicant</u> ” (not by the court).
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	Should the term “court personnel” in proposed rule 3.54 be defined for the purpose of this rule to include individuals or agencies under contract with a court to recover court fees and costs that were initially waived but later ordered paid by the court?  No, rather a separate broader based rule should be developed for this purpose which includes the release of confidential information/forms on a variety of case types for the purpose of recovery of court fees, costs, fines, etc., which may be contracted for out of collection. [sic] An example is the social security number, date of birth, driver’s license number, bank account information, and other personal property contained in the Defendant’s Statement of Assets (CR-115) which may be shared with contracted vendors to aid in collection efforts.	The proposal in this comment is outside the scope of the current proposal. The committees will refer this issue to the AOC’s Enhanced Collection Unit to be considered in the future as time and resources permit.
Superior Court of Sacramento County by Chris Stewart Director, Research & Evaluation	*Rule 3.58(b) regarding confidentiality of the hearing was stricken. However the requirements that hearings on Fee Waivers are to be held in-camera or private and closed still exist in [Government Code, section] 68633(f).	The committees have concluded that the inclusion in the new statute of the requirement that hearings be kept confidential makes a rule of court on this subject unnecessary.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and	Should the amended rule include specific standards for determining whether the confidential information be released?  The application should remain confidential, but a person requesting the information should be required to demonstrate a	The committees not the commentator’s agreement with the proposed rule.

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<b>Rule 3.54</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	<p>need to know and for what purpose the information will be used. A noticed motion supported by a declaration as indicated in proposed rule 3.54 should be sufficient.</p> <p>Should provisions limiting the use of such information upon release be included? The judicial officer hearing the motion should have discretion to determine limitations on use of the information upon release and any order should include the specific limitations.</p> <p>Should “court personnel” be defined to include those under contract with a court to recover court fees &amp; costs re: confidentiality provisions? Yes, as long as the contract person is acting as an agent of the court to specifically recover court fees and costs.</p>	<p>The committees agree, but have modified the rule to expressly authorize a court to include such restrictions in the order.</p> <p>See response to Grace Andres’ comment, part 2, above.</p>
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	<p>Is using “individuals or agencies under contract with a court” clear enough to identify those entities whose expenses will be recoverable, or is that language sufficient and not too ambiguous?</p> <p>We agree with the proposed amendment. If there are specific standards and definitions of what confidential information can be released and setting limits on how that information is used when and if released, would take some of the pressure off of staff having to make that determination. Establishing written standards (rules or procedures) would be very helpful in knowing who has access to the waiver application documents. Developing written procedures or rules pertain[ing] to access fee waivers would facilitate clerks in determining who is authorized to view the documents. It would also provide them with documentation that they can show when someone challenges their refusal to provide access to the confidential documents.</p>	<p>See response to Grace Andres’ comment, part 2, above.</p> <p>Clarity exists for clerks under the proposed rule in that the financial information in the application form may only be released to authorized court personnel or individuals authorized by the applicant. All filings on Judicial Council forms marked “confidential,” and all attachments thereto, are to be kept confidential. The documentation that may be provided for keeping such documents confidential is reference to Government Code section 68633(f).</p>

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<b>Rule 3.54</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC) Joint Rules Working Group by Patrick Danna AOC Staff	Regarding proposed Rule 3.54, agreed that the “good cause” standard is sufficient and that specific factors for the courts to consider in making the good cause decision was not required.	The committees agree and have used that standard in the rule.

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### Civil: Fee Waiver Rules and Forms

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Rules 3.55 and 3.56		
Commentator	Comment	Committee Response
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	Should rules be amended to include Court Investigator fees? No, waiver of these fees should be at the discretion of the court. Consider adding to additional fee waiver.	The committees propose further examination into waiving family court investigator fees under rule 3.55 or 3.56, and agree to consider this issue in a future cycle.
State Bar of California, Standing Committee on the Delivery of Legal Services by Sharon Ngim Program Developer & Staff Liaison	<u>Fee Waiver Order Should Include Interpreter Fees As Well As Others:</u> We support the proposition that the Court Fee Waiver Order should include the waiver of court investigator fees, costs for copy of clerk's transcript for appeals and court interpreter fees. Low and moderate-income litigants are deprived of true equal access to justice when they cannot afford to pay for services that are necessary in their case.	The committees agree with the comment as regards fees for clerk's transcripts on appeal, and the rule has been modified. As to interpreters, Rule 3.56 currently includes fees for court-appointed interpreters among those a court may waive. To the extent this proposal seeks to have additional interpreter fees included, as well as fees for court investigators, the committees will consider what fees should be included under rule 3.55 or 3.56 in a future cycle.
Superior Court of Los Angeles County Los Angeles, California	<p>Adding the fees of court investigators to rule 3.55, rather than rule 3.56, is recommended. The same qualification should be applicable to those requesting court investigators. Please note that court investigators are normally used in some probate matters, not family law.</p> <p>The rules, as written in rules 3.55 and 3.56 regarding the costs for copy of the clerk's transcripts for appeals should remain as written.</p>	<p>The invitation to comment addressed only family law court investigators. The committee notes that waiver of payment of fees for court investigators in probate matters in the event of hardship is addressed in Probate Code, sections 1513.1 (guardianships) and 1851.5 (conservatorships). An additional statutory proposal is being considered by the Probate and Mental Health Advisory Committee for investigator fees in property transactions by spouses or domestic partners in their community property. The committees believe that these statutory provisions for discretionary waiver of probate investigator costs because of "hardship" occupy the field to the exclusion of civil fee waiver rules.</p> <p>The committees have concluded that the fees to be waived under the civil rules should include copying and transmitting the clerk's transcripts to the appellate court and the party. The committees note that fees for reasonably necessary copies are already included in the rule in any event.</p>

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<b>Rules 3.55 and 3.56</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Legal Aid Association of California by Leslie Alexander Staff Attorney & Program Manager San Francisco, California	<p>LAAC particularly wishes to reinforce the point that the rules should not distinguish between fees that “must be waived” (listed in Proposed Rule 3.55) and fees that “may be waived” (listed in Proposed Rule 3.56). Including this distinction in the rules runs counter to the goals that AB 2448 was enacted to advance—to improve access to justice regardless of economic means and to encourage uniform procedures that apply rules fairly to similarly situated persons.</p> <p>Section 68631 of the statute provides that “[a]n initial fee waiver shall be granted by the court at any stage of the proceedings at both the appellate and trial court levels if an applicant meets the standards of eligibility and application requirements.” The statute does not authorize the courts to distinguish among different types of fees, only some of which must always be waived and others of which may or may not be waived at the court’s discretion.</p> <p>Proposed Rule 3.56 allows the court to exercise such discretion but fails to provide any standards for the court to follow in deciding whether to waive the fees. The court may not look to the substance of the case because under Section 68634 (e) of the statute, the “fee waiver application shall be determined without regard to the substance of the applicant’s pleading or other paper filed, if any.” In order to ensure that the court “applies rules fairly to similarly situated persons,” (Section 68630(b)), the rules should adhere to the statute by requiring the court to “[g]rant the application if the information provided on the application establishes that the applicant meets the criteria for eligibility and application requirements.” (Section 68634(e)(1)).</p> <p>Therefore, Proposed Rules 3.55 and 3.56 should be combined into one rule, listing fees that must be waived upon granting an</p>	<p>This is not a new provision. The statute quoted goes on to state “An initial fee waiver excuses the applicant from paying fees for the first pleading or other paper, and other court fees and costs as specified in rules adopted by the Judicial Council.” A similar provision existed in the prior fee waiver statute (Gov. Code, § 68511.3), and the rules renumbered here as rules 3.55 and 3.56 were adopted by the Judicial Council under that prior statute.</p> <p>Changing the nature of the current rules to eliminate the distinction between fees included in all waivers and those waived at the discretion of the court when shown to be reasonably necessary, or to set a different standard for the court’s exercise of its discretion, is outside the scope of this proposal. The committees will consider these proposals in the future as time and resources permit.</p>



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<b>Rules 3.55 and 3.56</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	application for an initial fee waiver. LAAC concurs with the comments submitted by our member programs regarding the fees that should be added to that list.	
<p>Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California</p>	<p>The Invitation to Comment suggests one possible addition to the list of fees that are or may be waived. We agree that the family law investigator's fees should be included, and we would add probate investigator's fees (for guardianships and conservatorships) as well.</p> <p>The question of whether these should be included in the "must be waived" list of Rule 3.55 or the "may be waived" list of Rule 3.56 raises a much more fundamental question. Section 68631 provides that the granting of a waiver excuses payment of the initial filing fee and "other court fees and costs as specified in rules adopted by the Judicial Council." There is nothing in the statute that suggests that waiver of some fees is mandatory and waiver of others is discretionary. To the contrary, such a distinction conflicts with the Legislature's declaration in section 68630 (a) "[t]hat our legal system cannot provide 'equal justice under law' unless all persons have access to the courts without regard to their economic means."</p> <p>More than that, the rule suggests no standards for a court to decide whether or not to waive any of the discretionary fees under Rule 3.56. Since the statute (Section 68634 (e)) prohibits the court from considering the substance of the case in deciding whether or not to grant a fee waiver, there is no basis for the court to exercise discretion. The court's desire for efficiency or economy are not appropriate grounds for denying a fee-waiver application. Therefore, all of the fees, whether listed under Rule 3.55 or Rule 3.56, should be waived on initial application, and there should not be a separate "may be waived" list. This will also increase court efficiency by eliminating the need for additional forms, orders, and hearings for the Rule 3.56</p>	<p>1. The committees propose further examination into waiving family court investigator fees under rule 3.55 or 3.56, and will consider this issue in a future cycle.</p> <p>2. The statutory provision cited is similar to one in the prior fee waiver statute, and the rules renumbered here as rules 3.55 and 3.56 were adopted by the Judicial Council under that prior statute. This is not a new provision. Changing the nature of the current rules to eliminate the distinction between fees included in all waivers and those waived at the discretion of the court when found to be reasonably necessary, or to set a different standard for the court's exercise of its discretion, is outside the scope of this proposal. The committees will consider these proposals in the future as time and resources permit.</p>

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<b>Rules 3.55 and 3.56</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>waivers.</p> <p>In addition to our recommendation to combine Rules 3.55 and 3.56 and to add court investigator's fees to the list, we also suggest adding court-appointed interpreter's fees for parties to the list of court fees and costs that must be waived upon granting an application for an initial fee waiver. The legislative findings make clear that access to the justice system is the primary concern of the statute. As early as 1993, a report on the future of the courts in California stated: "Lack of comprehension is perhaps the greatest single barrier to justice. A failure to understand the system, the law or the language of legal proceedings renders justice incomprehensible at best. At worst, it can result in severe injustice." [Commission on the Future of the California Courts. <i>Justice in the Balance – 2020</i> (1993) See also California Commission on Access to Justice. <i>Language Barriers to Justice in California</i> (2005), available at <a href="http://calbar.ca.gov/calbar/pdfs/reports/2005_Language-Barriers_Report.pdf">http://calbar.ca.gov/calbar/pdfs/reports/2005_Language-Barriers_Report.pdf</a>.] In many cases, poor parties in cases are denied their day in court because they are unable to afford a court interpreter. For example, many judges will not hear a dissolution-of-marriage case without a certified interpreter, thereby keeping poor litigants from obtaining something that only the courts can provide. [<i>Boddie et al. v. Connecticut et al.</i>, 401 U.S. 371 (1971).]</p>	<p>Inclusion of fees for interpreters for parties among the listed waived fees is outside the scope of the current proposal. The committees will consider this proposal in the future as time and resources permit.</p>
<p>Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California</p>	<p>Should proposed rule 3.55(9) (regarding the costs for a copy of the clerk's transcript for appeals) be made identical to proposed rules 8.102(f)(3) and 8.821(c)(7)(B)?</p> <p>Yes.</p>	<p>The committees agree and the rule has been modified.</p>

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<b>Rules 3.55 and 3.56</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee</p>	<p>Should the fee waiver include court investigator fees in family law matters?</p> <p>Yes. If the petitioner is unable to pay the initial filing fees it is not likely that he or she can pay the court investigator fee. It will save paperwork and time to have the court investigator fee waived with the initial request for waiver if the party qualifies for a waiver.</p> <p>Should 3.55(9) regarding the costs for a copy of the clerk's transcripts for appeals identical to proposed rules 8.102(e)(3) and 8.821(c)(6)(2)?</p> <p>It is usually clearer if rules on items to be treated the same are worded the same.</p>	<p>The committees propose further examination into waiving family court investigator fees under rule 3.55 or 3.56, and will consider this issue in a future cycle.</p> <p>The committees agree and the rule has been modified.</p>
<p>Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California</p>	<p>Fees of court investigators used in some family law matters should be included in the list of those fees that may be waived at the discretion of the court. There may be cases where a court would want to waive these fees initially in order to get a case moving and then revisit the fee issue thereafter, perhaps reallocating fees, depending on where the findings of the court investigator take the case.</p>	<p>The committees propose further examination into waiving family court investigator fees under rule 3.55 or 3.56, and will consider this issue in a future cycle.</p>
<p>Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California</p>	<p>*The fees for court investigators used in family law matters or a list of fees waived at the discretion of the court should also be included to avoid any ambiguity. Providing guidance for counter clerks is appreciated.</p>	<p>The committees propose further examination into waiving family court investigator fees under rule 3.55 or 3.56, and will consider this issue in a future cycle.</p>

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<b>Rule 3.57</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Kern County Family Law Division--Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	Add verbiage indicating that lien ability affects all cases except Unlawful Detainers and Family Law cases.	The rule has been modified to reflect that the statutory lien provision is limited to civil actions.
Superior Court of Los Angeles County Los Angeles, California	<p>Adding this rule is a good idea. However, it would require the courts to keep a running total of all fees and costs that have been waived. Not all courts may be able to immediately comply; may require programming of existing case management systems.</p> <p><u>New Rule</u> – Add a rule to promulgate that in the event the plaintiff whose fees were waived obtains judgment of \$10,000.00, judgment to include an order that the defendant pay to the court the specific amounts of fees waived before paying any sum to the plaintiff.</p>	<p>The committee notes that, while the rule does not impose a time frame that would require “immediate” compliance, courts need to be able to make this information available to litigants in a reasonable time frame so that a party subject to a lien may determine the amount. (Gov. Code, § 68637(c)(3).)</p> <p>This rule is outside the scope of the current proposal, but will be considered by the committees in the future as time and resources permit.</p>

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<b>Form FW-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	<p>Should public assistance information and qualifying gross monthly income charts be removed from the information sheet and placed on the request? Yes. It is helpful to the Judicial Officer and the clerk for this information to be on the request.</p> <p>Should the financial information sheet be expanded to three pages? No. The form is already too complicated for most people. If you try to clarify the form or ask for more information, it will only serve to confuse them further.</p>	<p>The committees agree the list of benefits and the income charts should remain on the application forms.</p> <p>The committee agrees that the form should not be expanded to three pages.</p>
Hon. Brett C. Klein Judge Superior Court of Los Angeles County Los Angeles, California	<p>The proposed revised Form FW-001, page 2, Item 8, asks for information about “family members living in your home.” This is a change from the current form (revised July 1, 2007), Item 9(f), which asks about “all the persons living in your home.”</p> <p>My comments:</p> <ol style="list-style-type: none"> <li>1. The wording of Item 8 is unclear regarding whether it applies to all family members, or to all dependent family members, or all dependents.</li> <li>2. Many poor people live with nonrelatives, and share expenses with them. Many poor people live with partners to whom they are not formally married. Under the existing form, all household members must be listed. You should continue to ask for the income of all household members. But if you decide no longer to ask about household members who are not related by blood or marriage, this should be a considered decision, and not just an inadvertent one.</li> </ol>	<p>The committees agree that item 8 should remain in substance as it was on the prior application form. The language has been modified in response to this comment, to read “List all other persons living in your home and their income; include only your spouse and all individuals who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.”</p>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal	The Invitation to Comment raises two questions regarding FW-001. The first is whether the income-limits chart should be on	The committees decided that qualifying income amounts should be included on the application form, so that they

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<b>Form FW-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty</p> <p>by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California</p>	<p>the application form or on the information form. We believe that the application will be clearer if the chart is on the information form.</p> <p>The second question is whether the financial information on the back of the application should be on one page or two. We suggest that it would make the process much clearer if the information were on two pages. One of the most common complaints of litigants is that they are required by the clerks to fill out all of the financial information, regardless of their grounds for seeking a waiver. If questions 6, 7 and 8 were on the first page of the financial statement, and questions 9 and 10 were on the second, it would easily distinguish the three different grounds for waiver. We also suggest a statement in bold type at the end of the application that if you are filing under paragraph (a), stop here, and another statement at the end of the first page of the financial information to stop there if filing under paragraph (b). This would make it much clearer, both to the litigants and to the clerks.</p> <p>In the introductory information on form FW-001, we have two concerns. In the third bullet, regarding settlements, the statement implies that there is always a lien on an award or settlement exceeding \$10,000. But this is not accurate. The lien exists only if the opposing party does not pay the fees under section 68637 (b)(1). If the opposing party is ordered to pay the fees and does so, there are no unpaid fees, and thus there is no lien. Therefore, the third bullet statement is overbroad.</p> <p>The next full paragraph of the introduction again overstates the threat to the applicant. Section 68633 (e) requires that the applicant be informed “that, at a later date, the court may require proof ....” The notice in form FW-001 implies that the inquiry from the court can come at the beginning of the</p>	<p>are clear to the applicant at the time he or she is completing the form.</p> <p>The committees have concluded that a one-page, two-sided form is the best format for the application, with all the financial information on a single sheet. The committees believe the revised instructions at the top of the financial statement clarify which sections need to be completed by which applicants.</p> <p>The third bullet point in form FW-001 has been modified and the references to an award or to winning a case have been removed. The lien applies to or all settlement recoveries of \$10,000 or more. (Gov. Code, § 68637(c).)</p> <p>The committees concluded that statement is appropriate. The court may require a hearing on the application at the beginning of the process if the court has reason to doubt the veracity of the statements on the form. (Gov. Code, § 68634(e)(4).)</p>

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Form FW-001		
Commentator	Comment	Committee Response
	<p>process, not just at a later time as indicated in Section 68633 (e). Therefore, we suggest that the sentence begin with the phrase, “If your request is granted,” and that the word “later” should modify both the order to answer questions and the order to pay the fees. The form should also state that the court’s ability to charge collection costs depends on the litigant not paying when ordered.</p> <p>Item 3 on the FW-001 form seeks both too much and too little information. Under the statute (section 68633 (g)), information about the lawyer is required only in general jurisdiction cases. This form requires it in all cases. Second, the statute provides, and the form states, that lawyers for or affiliated with a legal aid program are not subject to a hearing. Because there is no way for the applicant or the lawyer to indicate the affiliation on the form, a pro bono lawyer handling a legal aid case who represents the client as part of her private practice can be subjected to an unnecessary hearing, wasting the court’s time and unduly burdening a volunteer attorney. This could be solved with a checkbox. Third, to be consistent with the statute, the form should refer to the lawyer “advancing” the fees, not “paying” the fees.</p> <p>Item 8 of form FW-001 requires a list of “all other family members living in your home and their income.” The second sentence states, “Include your spouse and all individuals ....” Requiring the inclusion of the spouse’s income creates a very real hardship for many women who, while married and living with a husband, have no access to the husband’s income and may even be coming to court for the very purpose of seeking an order of support from the husband. This requirement will prevent many women who have no other way to access the courts from having their fees waived. Applicants should be required to list only those funds that are available to them.</p>	<p>The statute does not define “general jurisdiction cases.” Interpreting that phrase to mean unlimited jurisdiction cases, hearings under section 68633(g) would be required only in such cases. The form need not include information as to whether the case is a limited or unlimited jurisdiction case, however, because that information will be included on the Civil Cover Sheet filed in the matter. In light of this comment, the item has been modified to require identification of counsel’s firm or affiliation so that an attorney affiliated with a legal service project may so indicate. Additional space has been provided for entering this information.</p> <p>The committees concluded that income of a spouse living with the applicant should continue to be included in the application. If that income is not available, the applicant may explain that as part of “any other facts you want the court to know” (box at lower left of form regarding use of attachment form for additional information).</p>

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All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FW-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<p><u>Proposed Form FW-001 and Form FW-001-INFO</u> Proposed Form FW-001 states, at the top: “If you are getting public assistance...” However, Government Code section 68632(a) refers to a person who is receiving public <u>benefits</u>. CAJ recommends that the proposed form be revised so the language is consistent with the statutory language, changing public “assistance” to public “benefits.” Other references to public “assistance” (in any of the forms) should also be changed to public “benefits.”</p> <p>The advisory committees specifically seek comment on whether a rule should be adopted requiring that the information sheet be provided with every application form given to a litigant. CAJ recommends that such a rule be adopted because the information sheet has important information that will assist those litigants who are most likely to be seeking fee waivers.</p>	<p>The form has been modified in light of this comment.</p> <p>The rule has been modified to clarify that the information sheet must be given out with all applications.</p>
State Bar of California, Standing Committee on the Delivery of Legal Services by Sharon Ngim Program Developer & Staff Liaison	<p><u>Request to Waive Court Fees (FW-001) and Information Sheet on Waiver of Court Fees and Costs (FW-001-INFO)</u></p> <p>The chart showing the qualifying gross monthly household incomes for category 2 applicants should not be included on the Request to Waive Court Fees form (FW-001). Self-represented litigants are overwhelmed and intimidated by the amount of text already on the Fee Waiver Application Form. The additional albeit clarifying information does not outweigh the benefits of keeping the form simple.</p>	<p>The committees respectfully disagree, and determined that qualifying income amounts should be included on the application form, so that they are clear to the applicant at the time he or she is completing the form.</p>
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	<p>FW-001, in general: The form is very “busy.” It is difficult to focus on what needs to be completed or reviewed given the amount of information on the form itself. It seems redundant given the information sheet also proposed. Also, any reference to a lien should indicate the limitation to Civil actions.</p> <p>FW-001, item 2 and 3: This information should be switched around to put the attorney information, below the party</p>	<p>The committees determined that the qualifying income amounts and benefit program should be included on the application forms. References to the lien have been modified in light of this comment.</p> <p>In plain language forms, information concerning the party comes before information concerning an attorney.</p>



**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>information for consistency throughout the forms.</p> <p>FW-001, item 3: Your lawyer may be better written as “your attorney.”</p> <p>FW-001, Item 4a: Medi-Cal may need to be defined for eligibility given its share of cost vs. income ratio. Also, it may be wise to also spell out the SSI/SSP option as many confuse this as direct Social Security Benefits, ie. Retirement/disability.</p> <p>FW-001, page 2, box on bottom left: Box would serve better on first page near signature.</p>	<p>This form is consistent with that style.</p> <p>“Your lawyer” is the phrase that is generally used in other Judicial Council plain language forms.</p> <p>Receipt of benefits from Med-Cal, without further requirement, is a statutory basis for a fee waiver. (Gov. Code, § 68632(a)(7).) The committees believe the “SSI” and “SSP” designations are sufficient, particularly in light of the tight space on the form.</p> <p>The box will not fit on the front page. The committee believes it is appropriately located near the financial information.</p>
<p>Superior Court of Los Angeles County Los Angeles, California</p>	<p><u>FW-001, Page 1 of 1</u> – Although it will require annual revision of this form, it’s good to have the chart showing the qualifying gross monthly household incomes on the request rather than on the Information Sheet, plus there is no room on the Information Sheet for this information.</p> <p><u>FW-001, Page 2 of 2 (see below)</u> – This page is sufficient and need not be expanded to a third page.</p> <p>It’s best to leave the format for 7a. lines (1) – (5) and d. lines (1) – (5) indented (similar to 9. b. (1) – (4) and d. (1) – (4) on the current form) so that the amounts that are added in the column are not confused with the total. (Same recommendation for APP-015/FW-015, Page 2 of 2 on Page 62).</p> <p>Include the following instruction on 7 b: (<u>Add amounts on lines (1) – (5)</u>); similar to the instruction on c.</p> <p>At the end of d., add a line for:</p>	<p>The committees note the commentator’s agreement with the proposed form.</p> <p>The committees agree with this comment.</p> <p>The form has been modified in light of these comments.</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FW-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	Total of other income _____ \$ _____ (Similar to b.)	
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	Request to Waive Court Fees (Form FW-001) Should the low income (125% of the federal poverty guidelines) information be included on the application form? Yes.  Financial Information Sheet (page 2 of Request to Waive Court Fees form). Would this form be improved by expanding it to three pages? Disagree with expanding this form to three pages.	The committees note the commentator's agreement with the proposed form.  The committees agree with this comment., and the form will remain two-pages, as proposed.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	Should application be expanded to 3 <sup>rd</sup> page to provide more space for litigant but then [be] difficult to print/handle in court files?  The present ability to add an extra page as needed appears to be sufficient. A significant majority of those persons we help at the self help center do not have other things to add.  Suggestions on the application form content:  <u>On page 1, question 4</u> , add in a check box for yes or no – “I have papers to show that I receive these benefits or am a low income person.” This at least might alert the person to the possibility of being asked for the documents and perhaps keep some of the people who are not on the programs from checking the box in error, although the person must answer under penalty of perjury and bullet point number one at the top of the form warns them.  <u>On page 1, Question 4c</u> – what is the person supposed to explain? How much they are willing to pay? Why they would like payments? “Explain” by itself is unclear. It appears to be a line to request a particular payment amount. A hearing will	The committees agree with this comment.  The statute expressly precludes any request for documents supporting receipt of benefits as part of the appreciation process. (Gov. Code, § 68633(a).)  The committees acknowledge that the request to explain is terse, but believes it is sufficient, particularly in light of the tight space on the form and the fact that permission for partial payment can only be granted after

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Form FW-001		
Commentator	Comment	Committee Response
	<p>have to be held as far as I can tell. The original order doesn't have a section to grant payments, just the order after hearing.</p> <p><u>On page 1, Question 5</u> – add a few words to let people know that they do not have to apply for a fee waiver every 6 months and include the duration of the waiver.</p> <p><u>Page Two:</u> instead of using all that space in the bottom left regarding how to provide more info, leave a little space there for people to write small. Maybe get rid of the warning re: improvement of finances since the person is getting the form FW-010 or provide the information in lines at the bottom that take up less space than a box.</p>	<p>a hearing, at which further explanation can be provided.</p> <p>The duration of the fee waiver (until 60 days after judgment, dismissal, or other final disposition of the action unless the party is found to be not eligible) is stated on the Information Sheet provided with the application. Because there will not be a termination date on the order (as has been the practice in some courts prior to enactment of the new statute), there is no need to advise the applicants that they do not have to re-apply on a regular basis.</p> <p>The committees decided that the advisement that the party must notify the court of changed financial circumstances is important, and should be on the application form. Attachment of an additional sheet of paper for further information should not be difficult for applicant to handle.</p>
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	<p>Form FW-001 and information sheet</p> <p>The form overall is very good and will be easy for litigants to follow.</p> <p>The information section of FW-001 should not be expanded to make the application three pages. A third page on the request may be overwhelming for litigants. If an applicant needs more space for providing installment payments or other monthly expenses, an attachment page can be added, but generally this is not necessary.</p> <p>The qualifying guidelines and information should be on the request to waive. Applicants are not aware of the numbers as they see only the application (or don't read the whole fee waiver package). While the revision of the income numbers</p>	<p>The committees agree with this comment.</p> <p>The committees note the commentator's agreement with the proposed form.</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>each year would require annual form revisions, this change requires the updating of the cover sheet of the fee waiver package, so there would be a no net change [sic] if this is the only form on which the numbers appear.</p> <p>It is recommended to print items 7e. and 8b., on the request, in bold font so the litigants and court can more easily identify the totals of these items.</p>	<p>The form has been modified in light of this comment.</p>
<p>Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California</p>	<p>The listing of new qualifying public assistance programs on the forms may be helpful to the applicants to help them determine what some of the qualifiers are. However, if the list of those agencies fluctuate frequently, then it may not be beneficial to do so to avoid having the form get outdated once these agencies change. Another alternative would be to devise a separate one-page document that may list all of the qualifying agencies.</p> <p>Regarding adding a third page to the form, we believe that the instruction as written would be sufficient to attach the MC form or a separate page if more space is needed. However, there may be [a] box that can be checked to indicate at the end of the Financial Information form that additional pages are attached so that someone who is viewing the form would know if all the pages are included and that there are not any lost pages.</p> <p>Adding a list of financial assistance programs and qualifying monthly income figures to the form would only expand the form itself. It may be better to have it all on a separate sheet that is not part of the form so that the information on the form is not cluttered by this information. If it is made a separate sheet, reference to the informational sheet should be included on the form so the applicant is given information of the existence of the form.</p> <p>The process to be followed if an application is denied should be</p>	<p>The committees agree that a list of qualifying public benefits programs should be included on the application. The list is statutorily mandated and does not change frequently.</p> <p>The committees agree that the one-page, two-sided form is better. The form has been modified to include a check box indicating when an attachment exists.</p> <p>A list of qualifying programs and income figures is already on the proposed form, so their inclusion will not result in a further expansion of the form.</p>

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Form FW-001		
Commentator	Comment	Committee Response
	stated in a rule but should not be restated on the form. A reference to the rule number would be sufficient so that the applicant is given knowledge of the rule and process.	The committees determined that the advisements, rather than mere references to the rules of court, are appropriate, particularly in light of the fact that orders will generally be issued to self-represented litigants.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-001-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	<p>Information Sheet on Waiver of Court Fees and Costs-Should the form be expanded to two pages and retain the list of financial assistance programs and qualifying monthly income figures? A reference that the information is explained or detailed on the request should be enough.</p> <p>Should the information sheet be provided with each request? Yes.</p> <p>FW-001-Info: The second to the last bullet advises the fee waiver expires 60 days after judgment, dismissal, or other final disposition of the case. This advisement could lead to confusion for Family Law cases in the event there is a bifurcated judgment ending the status of the marriage. Could this be clarified to identify if the fee waiver remains in effect under these circumstances (if that is the intent?).</p>	<p>The committees agree, and Rule 3.51 has been modified to clarify this requirement.</p> <p>The bullet point regarding the term of the fee waiver quotes the text of Government Code, section 68639 in its entirety. The committees believe the text is appropriate and sufficient.</p>
State Bar of California, Standing Committee on the Delivery of Legal Services by Sharon Ngim Program Developer & Staff Liaison	<p>The Information Sheet on Waiver of Court Fees and Costs (FW-001-INFO) should include the list of financial assistance programs and the chart showing the qualifying gross monthly household incomes. Ideally, the text on the Information Sheet should be limited to one page. We recommend that the Judicial Council consider eliminating any new unnecessary text to create a one-page form that lists the financial assistance programs and the chart showing the qualifying gross monthly household incomes.</p> <p>It should be mandated that the Information Sheet on Waiver of Court Fees and Costs (FW-001-INFO) be provided with every application form given to litigants. Many low and moderate-income litigants do not know about the availability of fee waivers. Therefore, it is imperative that the Information Sheet on Waiver of Court Fees and Costs be provided to litigants along with every Fee Waiver Application and Order form.</p>	<p>The committees concluded that all of the information on proposed form FW-001-INFO is important, and should be included on the form.</p> <p>The committees agree that the information sheet should be provided with every application form. Rule 3.51 has been modified to clarify this requirement.</p>

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All comments are verbatim unless indicated by an asterisk (\*).

Form FW-001-INFO		
Commentator	Comment	Committee Response
Superior Court of Los Angeles County Los Angeles, California	<p>Page 40, FW-001 – INFO, Page 1 of 1. – A one-page Information Sheet is sufficient and need not be expanded to two pages. Also, items 1 and 2 regarding Reporter Fees (see below) as proposed is a misinterpretation of the proposed Rule 3.55(7) and must be changed as follows:</p> <p>1. • Reporter’s daily fee (<del>for up to 60 days at the court approved daily rate</del>) (<u>for trials held within 60 days of the date of the initial order</u>)</p> <p>The reporter fees that are waived are for trials within 60 days of the initial order, not any 60 days.</p> <p>2. • Reporters’ daily fees beyond <del>the 60-days limit of the initial order</del></p> <p>Also see FW- 002, Page 1 of on Page 41; FW-003, Page 1 of 2 on Page 42; FW-005, Page 1 of 1 on page 46; FW-008, Page 1 of 2 and Page 2 of 2 on Pages 49 and 50; and FW-012, Page 2 of 2 on Page 54.</p>	<p>The committees agree with the comment regarding the length of the form. The references to reporter’s fees on the INFO sheet and other forms have been modified in light of this comment.</p>
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	<p>Information Sheet on Waiver of Court Fees and Costs (form FW-001-INFO) Should the information sheet be expanded to two pages and should it retain the list of financial assistance programs and qualifying monthly income figures and should those items be included on the application form?</p> <p>List of financial assistance programs and qualifying monthly income figures should be included on the application form and not the information sheet.</p> <p>Should a rule be adopted requiring that the information sheet be provided with every application form given to a litigant?</p> <p>No. In Orange County, parties may select any fee waiver page</p>	<p>The committees note the commentator’s agreement with the proposed form.</p> <p>The rule states that the clerk must provide the</p>

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<b>Form FW-001-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	necessary by going to our forms kiosk and selecting the forms directing through a link to the AOC website.	application forms and information sheet without charge to any person who requests them or indicates that he or she cannot pay. (Rule 3.51.) If the clerk directs a party to a kiosk for application forms, the clerk should also direct the applicant to obtain the information sheet in the same manner.
Superior Court of Sacramento County by Chris Stewart Director, Research & Evaluation	A rule may be needed to require that the Info Sheet (FW-001-INFO) be provided with every application form given to a litigant in the fee waiver and online fee waiver packets.	The committees agree, and rule 3.51 has been modified to clarify this requirement.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	<p>Should info re: income limits be on the form, since it will require form revisions a few times per year? Or should it stay on info sheet?</p> <p>It would be most useful to the litigants and the clerks to have the income limits on both the application and the information sheet.</p> <p>Should a rule be adopted requiring that the information sheet be provided with every application form given to a litigant? It is currently part of our packet in San Bernardino County. The information sheet can be printed separately and given to a litigant who wishes to determine if they qualify for a waiver application before actually taking a fee waiver packet to complete. However, the proposed revision contains important information regarding when to notify the court of changes, settlement of a case, collection and duration of the waiver. It should be included in the waiver packet.</p>	<p>The committees agree that the information should be on the application form. Because the financial information changes every year, the committees have concluded it should be included on only one form. In addition, the inclusion of the information on the INFO sheet would require use of an additional page.</p> <p>The committees agree.</p>
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	There should be a rule for providing the information sheet with every application. Would the rule also require a Family Law Facilitator to hand one to every customer he or she assists in completing an FW-001?	The committees agree, and rule 3.51 has been modified to provide that a court is to provide the information sheet to anyone who requests a fee waiver application or states he cannot afford to pay the filing fees. There is no exception for family law facilitators, who are acting as



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Form FW-001-INFO		
Commentator	Comment	Committee Response
	<p>Court investigator fee information should be in item # 2 of the information sheet.</p> <p>The one-page length of the information sheet is sufficient. Most litigants will skip over much of the information provided if it becomes too long and detailed.</p>	<p>court personnel.</p> <p>The committees propose further examination into waiving family court investigator fees and will consider this issue in a future cycle.</p> <p>The committees agree.</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-002</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	Will court users understand the term Short Case Title?  Suggest changed #3 to “I had a fee waiver in this case before”. Most people will not have this information and will leave it blank. This will require the clerk to look to see if they had a previously granted fee waiver.	The form has been modified in light of this comment, and the word “short” removed.  An order granting a fee waiver is a precondition to the grant of this request. The court will need to review that order, if one exists.
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	Please see comments to Rules 3.55 and 3.56. [stating that there should be no discretionary or additional level of fees waived.]	See response to this commentator’s comments to rule 3.55 and 3.56, above.
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-002, bottom box of information: Add reference of lien limitation to specific Civil cases.	The form has been modified in light of this comment. The warnings regarding the lien in the fee waiver forms and in summons forms now reference only civil cases.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-003</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	<p>Enclosing a blank hearing request: Yes, this requirement should be set forth in a rule of court.</p> <p>Should the FW-003 include an item for the clerk to use to certify a true and correct copy? Yes</p> <p>FW-003-Court Fee Waiver Order-Should include instructions to the party to complete items 1 and 2 and bring the form with them to the hearing.</p> <p>Suggest moving the clerks signature line to the bottom of page 1 because the clerk does not have authority to deny a fee waiver. Then, leave Judicial Officers signature line on page 2.</p>	<p>Rule 3.52 has been modified to include this requirement.</p> <p>The committees concluded the benefits of limiting the form to two sides of a single page outweigh the benefit of including such a certification.</p> <p>The committees respectfully disagree. There is the potential of confusing a self-represented litigant into thinking that he or she should fill out the entire form in advance, which would make production of the order by the court more difficult and confusing.</p> <p>The committees believe that having two separate signature lines would be confusing.</p>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	<p>The Invitation to Comment seeks input on whether the time limits and consequences should be only on the form, not in the rule. We believe this information should be in the rule as well. Researching is generally done in the statutes and the rules, not by reviewing forms.</p> <p>We also believe that it would be useful if the form included a checkbox for personal service by the clerk. We do not, however, feel it is necessary for the forms to include a certification section.</p>	<p>The Invitation sought comment as to whether the requirement that a court provide a blank request for hearing form should be in the rule as well as noted on the form. Rule 3.52 has been modified to include the requirement. The provision regarding time limits and consequences that are on the form are from statutory provisions (Gov. Code, § 68354(e)) and will not be repeated in the rule.</p> <p>The committees agree, and the forms have been modified to include certificate of service by hand</p>
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<u>Proposed form FW-003</u> Comments are invited on whether, if the application is denied because the information provided conclusively establishes that the applicant is not eligible, a provision should be explicitly stated in a rule – in	Rule 3.52 has been modified to include this requirement.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-003</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>addition to being included on this form – requiring the clerk to enclose a blank hearing request form with an order denying an initial fee waiver. CAJ recommends that specific rules be adopted on this issue. Government Code section 68634(e)(3) provides that “the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to request a hearing,” but is silent as to whether the clerk should provide a “blank hearing request form.” A rule covering this issue would give the clerk guidance and be beneficial to the litigants.</p> <p>Comments are invited on whether the form should include a space for the court to indicate whether the form has been hand-delivered to the applicant. CAJ believes that this space should be included.</p> <p>Comments are invited on whether this form should include an item for the clerk to certify a true and correct copy of the order. CAJ believes that certification is unnecessary and that such an item should not be included on the form.</p>	<p>The committees agree, and the certificate of service has been modified to include an item for hand-delivery at courthouse.</p> <p>The committees agree.</p>
<p>Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California</p>	<p>FW-003, Case Name /Number box: Should be/look consistent as with other FW forms.</p> <p>FW-003, item 4a: Boxes on the options under Fee Waiver would serve helpful [sic] and provide consistency with other orders.</p>	<p>The case name and/number box has been modified in light of this comment.</p> <p>The waiver of fees for items listed under 5a are not discretionary, but are all waived if 5a is checked. See rule 3.55. Hence the committees do not believe separate check boxes for each item would be appropriate.</p>
<p>Superior Court of Los Angeles County Los Angeles, California</p>	<p>FW-003, Page 2 of 2: Signature line – For consistency with other Judicial Council forms (e.g., FL-336 on Page 58), capitalize letters J and O in Judicial Officer and letters C and D in Clerk, Deputy. These are titles. (Also do the same on form FW-007, Page 1 of 1 on Page 48; FW-008, Page 2 of 2 on Page 50; FW- 011, Page 1 of 1 on Page 52; and APP-016, FW-016, Page 2 of 2 on Page 66.</p>	<p>The signature lines in these forms have been corrected.</p>

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<b>Form FW-003</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><i>Signature of (check one):</i>    <u>J</u>udicial <u>O</u>fficer    <u>C</u>lerk, <u>D</u>eputy</p> <p>FW-003, Page 2 of 2, Change Clerk's Certificate of Mailing to Clerk's Certificate of Service and add a third box for "Given in Court." Majority of the times, courtroom staff is able to give the copy to the party in the courtroom.</p>	The committees agree, and the certificate of service on the forms has been modified to include hand-delivery at the courthouse.
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	<p>Court Fee Waiver Order (form FW-003) If the application is denied because the information provided conclusively established that the applicant is not eligible, the clerk must enclose a blank hearing request form with an order denying an initial fee waiver. Should this provision be explicitly stated in a rule in addition to being included on this form?</p> <p>Yes.</p> <p>Should the order form include a space for the court to indicate whether the form has been hand-delivered to the applicant?</p> <p>Yes.</p>	<p>The committees agree, and rule 3.52 has been modified to include the requirement.</p> <p>The committees agree, and the certificate of service on the forms has been modified to include hand-delivery at the courthouse.</p>
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	<p>Should the provision in GC 68634(e)(3) that the clerk must enclose a blank hearing request form with an order denying an initial fee waiver be explicitly stated in a rule in addition to being included on the form.</p> <p>There may be more clarity if the rules that cover the application process also cover the denial and subsequent hearing process, but the government code and the form can be relied on for procedural purposes if necessary.</p> <p>Should the order have a space for the court to indicate hand delivered to the applicant?</p>	The committees agree, and rule 3.52 has been modified to include the requirement.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FW-003</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Yes, that is useful for the clerk when the order is granted by the clerk at the counter.</p> <p>Should the order forms, FW-003 and FW-008, include an item for the clerk to use to certify and true and correct copy of the order? Would make the form 3 pages.</p> <p>If adding a third page is done only for the purpose of the certification, it is not worth adding the third page. If a third page is added for another purpose and there is space available, it is much more convenient to have a space specifically for certifying the copy.</p>	<p>The committees agree, and the certificate of service on the forms has been modified.</p> <p>The committees agree that the benefit is not worth the burden on the courts of adding an extra page to the form.</p>
<p>Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California</p>	<p>There should be a rule that if the information provided establishes conclusively to the court that an applicant is ineligible, the clerk should provide a blank hearing request form (FW-006) to the applicant. This will provide consistency statewide.</p> <p>It would be helpful to include a space for a clerk to indicate hand delivery for those situations where the process is handled in person.</p> <p>It would be helpful to include a space for clerk to use to certify a true and correct copy of the order.</p>	<p>The committees agree, and rule 3.52 has been modified to include this requirement.</p> <p>The committees agree, and the certificate of service has been modified.</p> <p>The committees believe the benefit of including space on the form for certification of a true and correct copy is not worth the added burden on court files of adding an extra page to every copy of this form.</p>

## W09-01

### Civil: Fee Waiver Rules and Forms

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Form FW-003		
Commentator	Comment	Committee Response
Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC) Joint Rules Working Group by Patrick Danna AOC Staff	1. Recommend that for the certificate of mailing section in the proposed new and amended fee waiver forms remove the required court seal. The court seal would only be required on the forms to certify a true and correct copy of the original order. Removing the seal would save space on the forms.	The committees agree; the seal has been removed so that the certificate of service could be re-formatted to save space and permit an item to show hand-delivery of the order form.
	2. Previous forms had a space for the clerk to certify a true and correct copy of the original order. Recommend this be included in this form.	The committees concluded that the benefit of including space on the form for certification of a true and correct copy is not worth the added burden on court files of adding an extra page to every copy of this form.

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### Civil: Fee Waiver Rules and Forms

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Form FW-005		
Commentator	Comment	Committee Response
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<u>Proposed form FW-005</u> Government Code section 68634(f) states that an application for an initial fee waiver in the superior court is deemed granted five days after it was filed if the court does not give notice of action on the application before that time. The proposed notice form, entitled Notice: Waiver of Court Fees (Superior Court) is a notice that the request is granted. This form is a notice, not an order. The clerk's certificate of mailing states: "This notice was mailed . . . ." Yet a statement at the bottom of the proposed new form states: "This is a Court Order." The same appears at the bottom of Form FW-003, entitled Court Fee Waiver Order (Superior Court). Form FW-003 is an order, but CAJ believes that form FW-005 is not an order and should not bear that language.	This form has been modified, including addition of a signature line to indicate that it is issued by a clerk of the court. The designation that it is a court order has been removed in light of the fact that the fee waiver is granted by operation of law and the document is not issued by a judicial officer.
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-005: This form should have some designation at the top that it is a court-prepared form.	See response above. The form has been modified to show that it is court-issued.
Superior Court of Los Angeles County Los Angeles, California	FW-005, Page 1 of 1, same change as above [regarding capitalization on signature line] on the Notice: Waiver of Court Fees.	The signature lines have been modified.



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### Civil: Fee Waiver Rules and Forms

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Form FW-006		
Commentator	Comment	Committee Response
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-006/FW-007: The forms make sense separately but it may be easier to tailor these as we do the “Request for Hearings on Wage Assignments (FL-450)” where the party completes one section and the clerk’s office sets the hearing and completes certificate of mailing. Doing so with these two forms will merge them into one single form for easier handling for all users.	The direction that Judicial Council form style is taking as the computerized Court Case Management System is being developed is to separate forms as much as possible into those that are completed by litigants (inbound forms) and those that are completed by court personnel (outbound forms). For technological reasons, a court system may not be able to support a form that is completed by both court and litigant.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-007</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	FW-007-Should the Notice of Hearing require the signature of a Judicial Officer? If the clerk has authority to deny the hearing a Judicial Officer's signature would not be required. It appears that 5a and b would be considered ministerial. What other reasons would there be to deny a hearing? If it requires making a judgment on the request, then a Judge would have to grant the request.	The committees agree. A clerk has authority to set a hearing on a fee waiver application, but not to deny one. The committees decided the form should provide flexibility by including space for either a judicial officer or clerk to sign.
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	A court order should be signed by a judicial officer, not by a clerk. Orders denying or partially granting an application for an initial fee waiver may be made only by a judicial officer. (Section 68634 (d).) This should be reflected by requiring a judicial officer's signature on the order.	See response to comment of Grace Andres, above.
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<u>Proposed form FW-007</u> Form FW-007 would be used to grant or deny a request for a hearing filed on form FW-006. It also advises the applicant that he or she may take financial information to the hearing to support the request. (Gov. Code, § 68634(e)(3).) The advisory committees specifically seek comments on "whether this form should require the signature of a judicial officer or only that of a court clerk." CAJ recommends against removing "judicial officer" from the form (thereby leaving only a signature line for "clerk, deputy"), as some judges/commissioners may wish to review the forms themselves, especially if the request is going to be denied.	The committees agree. See response to comment of Grace Andres above.
Superior Court of Kern County Family Law Division—Metro	FW-006/FW-007: The forms make sense separately but it may be easier to tailor these as we do the "Request for Hearings on	The direction that Judicial Council form style is taking as the computerized Court Case Management System is

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-007</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	Wage Assignments (FL-450)” where the party completes one section and the clerk’s office sets the hearing and completes certificate of mailing. Doing so with these two forms will merge them into one single form for easier handling for all users.	being developed is to separate forms as much as possible into those that are completed by litigants (inbound forms) and those that are completed by court personnel (outbound forms). For technological reasons, a court system may not be able to support a form that is completed by both court and litigant.
Superior Court of Los Angeles County Los Angeles, California	FW-007, Page 1 of 1, same change [re capitalization] as above on the Notice on Hearing About Court Fees	The capitalization on the signature line has been modified.
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	Notice on Hearing About Court Fees (form FW-007) Should this form require the signature of a judicial officer or only that of a court clerk?  Only the court clerk’s signature.	The committees respectfully disagree. See response to comment of Grace Andres, above.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	Does the form need a judge to sign it, or can it be a clerk?  If the request for hearing is timely received the clerk should be able to set the hearing and give notice, including signing the notice. If the request is denied it probably should be ordered and signed by the judicial officer. In the same way a fee waiver can be delegated to a clerk to grant but not deny, the hearing order would follow suit.	The committees agree. See response to comment of Grace Andres, above.
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	Allowing for either a judicial signature or clerical signature by utilizing boxes is an excellent solution and the form should remain as is.	The committees agree. See response to comment of Grace Andres, above.
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	<u>FW –007 Form</u> The form should require the signature of a judicial officer since the determination of whether the hearing is granted or not rests with a judicial officer. The responsibility should not be given to a court clerk.	See response to comment of Grace Andres, above.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	<p>FW-008-Should the form include a space for the court to indicate if the form is hand delivered? Yes, it would be helpful to have a check box for this purpose.</p> <p>FW-008-Should a space be included to indicate the form was hand delivered to the applicant? Yes</p> <p>FW-008-Court Fee Waiver Order After Hearing-Include instructions to the party to complete items 1 and 2 and bring the form to the hearing.</p>	<p>The committees agree, and Rule 3.52 has been modified to include this requirement.</p> <p>The committees agree and the certificate of service has been modified to include an item for hand-delivery.</p> <p>The committees respectfully disagree. There is the potential of confusing a self-represented litigant into thinking he or she should fill out the entire form in advance, which would make production of the order by the court more difficult and confusing.</p>
<p>Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty</p> <p>by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California</p>	See comments to form FW-001 and FW-003.	See responses to those comments.
<p>State Bar of California, Committee on Administration of Justice</p> <p>by Saul Bercovitz</p>	<p><u>Proposed form FW-008</u> Comments are invited on whether form FW-008 should include a space to indicate whether the form has been hand-delivered to the applicant. CAJ believes that this space should be included.</p> <p>Comments are invited on whether this form should include an item for the clerk to certify a true and correct copy of the order. CAJ believes that certification is unnecessary and that such an item should not be included on the form.</p>	<p>The committees agree, and the certificate of service has been modified.</p> <p>The committees agree, and the certification has not been added.</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-008, item 5a: Boxes on the options under Fee Waiver would serve helpful [sic] and provide consistency with other orders.	The fees for the individually listed items in 5a are not discretionary, but are all waived if item 5a is checked. See rule 3.55. Hence, the committees decided that separate check boxes for each item would not be appropriate.
Superior Court of Los Angeles County	FW-008, Page 2 of 2, same change as above [regarding court reporter fees] on the Court Fee Waiver Order After Hearing Also, judicial officer should be Judicial Officer.	The forms have been modified in light of these comments.
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	Court Fee Waiver Order After Hearing (new form FW-008) Should the form include places to indicate whether the form has been hand-delivered to the applicant?  Yes.	The committees agree and the certificate of service on the forms has been modified.
Superior Court of Sacramento County Chris Stewart Director, Research & Evaluation	Form FW-008 Court Fee Waiver Order After Hearing (Superior Court) is problematic in that it provides the option of granting installment payments to pay <u>all</u> fees (i.e., a payment plan) under the heading of a fee waiver request that is partially granted (See section 5 e). If a judge may select more than one checkbox in Section 5 e. then it makes sense, with one modification for clarity. Since we are talking about a partial granting of a fee waiver, then the text in Section 5 e. 4 should not include the text ‘until all fees are paid’ as this implies that all fees must be paid because none have been waived. That text should be modified to indicate that installment payments are to be paid ‘until the fee amount due, as indicated above, is paid’.  The form is also problematic in that Government Code Section 68640 allows the Judicial Council to adopt a rule of court to allow those who are not eligible for a fee waiver to pay court fees in installments. The form is fine if the Judicial Council has decided <u>not</u> to allow the use of installment payments when a fee waiver is denied. However, if the Judicial Council wants to	The form has been modified, and the item for permitting payments over time has been moved to the section of the form addressing complete denial of the waiver (rather than partial denial, permitting a party to forego paying part of the fees).  In light of this comment, and upon further consideration, the form has been modified to allow payments over time upon denial of a fee waiver (see last check box in item 5b). The monthly payments may be permitted for the filing fees or for such other fees as are specifically

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### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Form FW-008		
Commentator	Comment	Committee Response
	allow judges to grant installment payments when a fee waiver application is denied, then Section 5 d. of this form needs to be modified to allow judges to deny the fee waiver, but authorize installment payments of all fees due, something that this court does on a regular basis. It is of note that the authorization to make installment payments to pay all fees must fall under the heading of a denied fee waiver so that CCMS will create the fees as due and the installment payments can be applied against them. If installment payments were authorized under a fully granted fee waiver, CCMS would create the fees as waived and the installment payments could not be applied against them which would mean that staff would have to recreate the fees as due to be able to apply the installment payments, which would create a huge unnecessary workload for staff.	identified in the order.  As noted in the Invitation to Comment, the committees have not yet developed rules and forms for use by individuals who are not seeking fee waivers who want to pay over time. The committees will consider this issue in the future in the future as time and resources permit.
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	It would be helpful to include a space for a clerk to indicate hand delivery for those situations where the process is handled in person.  On the old fee waiver application, there is an item that allows the judicial officer to make an order for paying a percentage and the amount of the monthly payments. The new request no longer has this option, but it is on the Court Fee Waiver Order After Hearing (FW-008). Does this mean that the judicial officer can only order this payment option if the party requests a hearing after receiving notice of the initial denial?	The committees agree, and the certificate of service on the forms has been modified.  The new fee waiver application form includes a request for a partial waiver or permission to make payments over time. (See form FW-001 at item 5c.) However, the new statute only permits a court to authorize partial payment or payments in installments after a hearing. (Gov. Code, § 68634(5).) Form FW-003, item 4c is designed to be used to set such an eligibility hearing.
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	<u>FW-008 Form</u> The “Hand Delivered” should be on the Order form since the applicant’s receipt of the form starts the clock for them to pay their fees. By having the check box on the form, it is easier for the clerks to note when the applicant received the form and when the clock starts.  It would be helpful to include a certification of a true and correct copy of the order. It would save processing time by eliminating the extra step of stamping.	The certificate of service has been modified to include hand-delivery by the clerk.  The committees believe that the benefit is offset by the burden of the extra page the certification item would add to each form.

## W09-01

### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Form FW-010		
Commentator	Comment	Committee Response
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	FW-010-Should settlement information be included on the form? Yes	The committees agree.
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<p><b><u>Proposed form FW-010</u></b> The advisory committees seek comments on whether information regarding a settlement should be included on form FW-010.</p> <p>The notice on this and several other forms provides, in substance, that a party who had his or her fees waived must notify the court within five days if the party's financial situation improves during the case, or if the party wins or settles the case for \$10,000 or more. Yet the only specific reference in the fee waiver statutes to notification within five days is in Government Code section 68636(a), dealing with a change in financial circumstances. Because that same language is not contained in section 68637, dealing with a settlement or other recovery for \$10,000 or more, CAJ believes the Judicial Council is presented with three options: 1) the notice in the various forms regarding the five-day notice requirement could be modified to remove references to a party who "wins or settles" a case, because there is no such express statutory requirement; 2) a rule could be adopted that specifically requires notice to be given within five days after a party's financial situation improves <u>or</u> after a party recovers \$10,000 or more; or 3) a rule could be adopted that deems a recovery of \$10,000 or more to be an improvement in a party's financial situation, thereby triggering the five-day notice requirement of section 68636(a).</p> <p>On the question whether "settlement" should be included in form FW-010, CAJ was evenly split. Those who favored including settlement felt that the form would help to ensure that the court is timely informed of a settlement over \$10,000 and</p>	<p>The notice box on this and the other forms has been modified to clarify that a party is not required to notify the court of any settlement within five days. However, fee applicants are required to notify the court of any change in financial circumstances that affects his or her ability to pay all or a portion of waived fees. (Gov. Code, § 68636(a).) One such change in circumstances would be when a fee waiver recipient enters into a settlement whereby the fee waiver recipient is to receive moneys. This form will facilitate reporting of that or any other applicable change in circumstances.</p> <p>The committees note the split of the commentators.</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FW-010</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>can take appropriate action to ensure that the appropriate parties are aware of and pay the lien arising under Government Code section 68637(c). Those who opposed including settlement felt that the settlement information in the form would be duplicative of the information in the revised request for dismissal form, which ordinarily would be filed at or about the same time, and that the form should not require the settlement information absent a statute or a rule requiring such information.</p> <p>Finally, CAJ notes a minor typographical error. The form cites Government Code § 68634(e) at the bottom, but the citation should be to Government Code § 68636(a).</p>	<p>The form citation has been corrected.</p>
<p>Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California</p>	<p>The Invitation to Comment asks if settlement information should be included on this form. The effect of a settlement in the fee-waiver statute and rules is very complex, and the proposed language in this form attempts to cover it with questions that avoid the complexity by oversimplifying it. First, it assumes that every settlement involves the payment of money from one party to the other. Many cases are settled with other outcomes, such as injunctive relief, waiver of debt (e.g., past and/or future rent), dismissal with no recovery, or other forms of relief. It may also involve payment by the indigent party, so that the party whose fees are waived does not receive anything. In addition, even if payment is contemplated, it may be that the party filing the notice has received some, but not all of the proceeds. None of these various situations are contemplated in the two simple questions asked on the proposed form. If it is necessary to include settlement information on this form, we suggest that the formulation on page 2 of the Request for Dismissal form (CIV-110) is much better than the language proposed for FW-110.</p>	<p>The form does not mandate that a party notify the court of any settlement. The form is a means by which a party may notify the court of any change in financial circumstances that affects his or her ability to pay all or a portion of waived fees. (Gov. Code § 68636(a).) One such change in circumstances would be when a fee waiver recipient enters into a settlement whereby the fee waiver recipient is to receive money. This form will facilitate reporting of such change in circumstances.</p>



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<b>Form FW-010</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-010: Add, “to Court” after word “Notice” on title. This way users know that this is a Notice to the Court of an improved financial settlement given that we have other Notices from the Court being proposed.  FW-010, box in the middle: Add reference of lien limitation to specific Civil cases.  FW-010, item 4: If possible, add a section on how the financial situation improved.	The form has been modified in light of this comment.  The notice box has been so modified.  The committees concluded that the proposed section is needed in light of requirement to attach a new form FW-001 in which the applicant may describe the changed financial situation.
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	Notice of Improved Financial Circumstances or Settlement (new form FW-010) Should the information regarding a settlement be included on this form.  Yes.	The committees note the commentator’s agreement with the proposed form.
Superior Court of Sacramento County Chris Stewart Director, Research & Evaluation	re: <i>Notice of Improved Financial Circumstances or Settlement</i> (FW-010) – recommendation that the language [regarding settlement] be included and that there be spacing in between the words “not” and “received the proceeds...” so that “ <i>have</i> ” box and “ <i>have not</i> ” boxes are clearly related to “received proceeds...”. As it is written on the form now, it appears that “received proceeds relates only to “ <i>have not</i> ”.	The form has been modified in light of this comment.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	Should it include information such as whether received a settlement?  It may be helpful to the court to determine if collection of waived costs and fees could be commenced in anticipation of a settlement date. The court may impose a lien but still must be aware that there are settlement proceeds to attach.	The committees note the commentator’s agreement with the proposed form.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-010</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	The form should include space so that information regarding a settlement can be included on this form.	The committees note the commentator's agreement with the proposed form.
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	Having the information regarding whether a fee waiver was granted on the settlement and dismissal forms would be helpful to all. The parties would be alerted that all the monies may not be going to the prevailing party. Furthermore, having that information on the forms will signal to the clerks that the fee waiver recoupment procedures apply. Since the Clerk's Office is going to have to come up with procedures anything that helps in easy identification and signaling a special processing of the documents is good.	The information is required on the request to enter dismissal form (as revised in this proposal). The committees will consider the comment regarding adding it to notice of settlement form as the committees consider revising that form in future cycles.

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>Form FW-011</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	Under section 68636 (b), a hearing to reconsider a fee waiver shall not be conducted more often than once every six months. This information should be included on this form, so that the applicant is made aware of this limit.	The prohibition on a court's holding reconsideration hearings more frequently than every six months is clear in the statute. The committees do not believe it needs to be reiterated on the form.
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-011: This form should have some designation at the top that it is a court-prepared form.	The committees believe the signature line on the form makes it clear the notice is from the court. In addition, the form has been modified to place the warning box at the top of the form.
Superior Court of Los Angeles County Los Angeles, California	FW-011, Page 1 of 1, same change [re signature line] on the Notice to Appear for Reconsideration of Fee Waiver	The signature line has been modified.

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### Civil: Fee Waiver Rules and Forms

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Form FW-012		
Commentator	Comment	Committee Response
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FW-012: Form should be titled with “Court order” or even “Order” at the beginning as Request is listed first [in title of FW-001], as are the Notices [in titles of FW-011]. It draws attention to the form content itself and may be easier to distinguish for all users.  FW-012, item 4: The word, “order” should be replaced with “notice” to be consistent with form titles.  FW-012, item 5: This section should be moved above “Read this form carefully. . .” as this verbiage indicates that everything that follows it is a court order and item 5 is not really a court order.	The committees agree, and have modified the title of this form and the other order forms (forms FW-003 and FW-008) to place the word “order” first in the title.  Item 4 of the form has been modified in light of these comments.  Item 5 has been modified in light of this comment.
Superior Court of Los Angeles County Los Angeles, California	FW-012, Page 2 of 2, same change [re signature line] on the Court Fee Waiver Order After Reconsideration  Page 53, FW-012, Page 1 of 2, change the title in the header to match the title in the footer.	The signature line has been modified.  The title has been modified in light of this comment.
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	Under d2. Can blank lines be added for the clerks to put in the amounts of the court fees due?  Can a statement be included on the form about the consequences of not paying the fees by the due date? i.e. filing voided?	Item 6d(2) lists what fees and costs will be waived in the future. These are no amounts due for the other items until such time after the issuance of the order they are incurred.  The committees will consider developing rules or proposing legislating regarding payments over time in future cycles as time and resources permit.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form CV-110</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
State Bar of California, Committee on Administration of Justice by Saul Bercovitz	<p><u>Proposed Request for Dismissal Form (CIV-110)</u></p> <p>Government Code section 68637(c)(4) states, in relevant part: “A party filing a petition for dismissal shall declare, under penalty of perjury, that the lien has been paid, or that any settlement, compromise, award or other recovery has a value of less than ten thousand dollars (\$10,000).” Thus, the request for dismissal form must include a declaration disclosing this information. This apparently is true regardless of whether the party requesting a dismissal is the party whose fees were waived.</p> <p>Paragraph 1 of the form is a request to the clerk, prefaced by “TO THE CLERK: Please <b>dismiss</b> this action as follows.” Items a and b explain the type of dismissal. Proposed item c, in contrast, does not explain the type of dismissal and therefore does not belong in paragraph 1. CAJ believes that item c should appear in a separate paragraph 2 just below paragraph 1.</p> <p>CAJ also suggests that the paragraph numbering on the declaration form should begin anew with paragraph 1, rather than continuing with paragraph 7. The declarant does not declare the truth of the items on the first page, but only declares the truth of the matters listed in the declaration itself.</p>	<p>The form has been modified in light of this comment.</p> <p>The form has been modified in light of this comment.</p>
Superior Court of Orange County by Civil and Small Claims Managers Santa Ana, California	<p>Should the Notice of Settlement of Entire Case (form CM-200) be amended to include a check box in which a litigant could indicate whether or not a fee waiver had been granted in the action?</p> <p>Yes.</p>	<p>The committees appreciate the response to the query, and will consider it when evaluating changes to the notice of settlement form in future cycles.</p>

## W09-01

### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

	Form CV-110	
Commentator	Comment	Committee Response
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	<p>Request for Dismissal is amended to include lien info. Should CM-200 also be amended to include a check in which a litigant could indicate whether a fee waiver was granted in the case?</p> <p>The form should be updated to provide settlement information consistent with GC 68511.3 (d)(3) regarding partial or full satisfaction being entered and the court's right to issue an abstract of judgment, writ of execution or both for recovery of waived costs, fees and administration costs.</p>	<p>The committees appreciate the response to the query and will consider it when evaluating changes to the notice of settlement form in future cycles.</p>
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	<p>The Notice of Settlement of Entire Case (form CM-200) should also be amended to include a check box item in which a litigant could indicate whether a fee waiver had been granted in the action.</p>	<p>The committees appreciate the response to the query and will consider it when evaluating changes to the notice of settlement form in future cycles.</p>

**W09-01****Civil: Fee Waiver Rules and Forms**

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<b>SUM-100, SUM-110, SUM-120, SUM-130, SUM-140, and SUM-145</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	All of the summons forms are proposed to be amended to include notice of the lien on settlements or judgments. Given the existing complexity of these forms, and the importance of the information on them, including this language that applies only in a limited number of cases seems excessive. Taking away the boldface type of the important notices about the limited time to answer and how to get assistance will be extremely harmful to unsophisticated litigants. There is no real need for the lien information on the summons forms, and it should be deleted. While the information added to the Family Law Summons, Form FL-110, is somewhat different, we believe the same arguments apply to this form as well.	The committees determined that the information is needed on the summons to provide notice of the potential lien to a defendant who might otherwise have no knowledge that he or she may be ordered to pay petitioner's waived court fees. The type size is the same as in the current summons forms. The boldface that has been eliminated in order to fit the text of the notice of lien had been applied to the entire half-page information box and so was not, in the committees' opinion, effective at highlighting any particular points.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FL-110</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	All of the summons forms are proposed to be amended to include notice of the lien on settlements or judgments. Given the existing complexity of these forms, and the importance of the information on them, including this language that applies only in a limited number of cases seems excessive. Taking away the boldface type of the important notices about the limited time to answer and how to get assistance will be extremely harmful to unsophisticated litigants. There is no real need for the lien information on the summons forms, and it should be deleted. While the information added to the Family Law Summons, Form FL-110, is somewhat different, we believe the same arguments apply to this form as well.	The committees determined that the information is needed on the summons to provide notice to a respondent who might otherwise have no knowledge that he or she may be ordered to pay petitioner's waived court fees.
Superior Court of Los Angeles County Los Angeles, California	Page 55, FL-110, Page 1 of 2 under Note: Add the word "to" (see below).  NOTE: If a judgment or support order is entered, the court may order you to pay all or part of the fees and costs that the court waived for yourself or for the other party. If this happens, the party ordered to pay fees shall be given notice.	The form has been modified as proposed.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	The notice on the family law summons appears to be sufficient to notify the parties that they could have to pay the fees, but could include a reference to the code section that addresses the statutory language regarding preference on support and arrears over waived costs and fees.	The form has been modified as proposed.



**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FL-336</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	Question regarding Family Law: Some Family Law cases include child support orders from the Department of Child Support Services. Would the Trial Court be able to recover previously waived court fees from a support order initiated by the Department of Child Support Services in those cases?  The check box is adequate.	No. Under Government Code, sections 68637(d) and (e), the court does not recover previously waived court fees from any support order. The court reviews a “judgment or order to pay support entered in a family law case” and, “based on the information in the court file,” determines whether to issue an order for payment of court fees. Further, unlike other proceedings, the collection of any fees in a title IV-D case relating to parentage or support issues is prohibited by statute under Government Code section 70672.  No response required.
Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California	The proposed form includes a comment that waived fees must be paid after paying all current and past support payments. The form includes a checkbox in front of this information. Section 68637 (d) requires this formulation. It should be included in the order as part of the first sentence, not as a separate check box.	The statement identified in the comment applies only if the party is ordered to pay the other party’s waived court fees. If the party ordered to pay waived court fees is the party whose fees are waived, the statement does not apply. This is why the check box was originally proposed. The committees have changed this form to clarify this point by revising item, 3a and 3b. Item 3a will require the court to identify if petitioner or respondent is being ordered to pay his or her own court fees or the other party’s court fees. Item 3b will include the statement, “The amount is due (1) After all current support and accrued support arrears have been paid (if ordered to pay the other party’s waived court fees).”
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FL-336: Not sure why this form does not follow the same format as is being used in the FW series of forms. Format should stay consistent and should contain some designation at the top that it is a court-prepared form as it may be a problem to depend on litigants to prepare this form.  FL-336, item 1e: This should be rephrased, eliminated, or mirrored to previous FW order forms as proposed.	The committees decided that the family law fee waiver forms should remain consistent with the existing format of the other forms in the FL- series. The title of this form has been changed to <i>Order to Pay Waived Court Fees and Costs (Superior Court)</i> to indicate that the form is prepared by the court.  The committees decided that item 1 should remain as currently proposed to be consistent with the existing

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Form FL-336</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
		family law order forms.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	How best to include (or if to include) the statutory language that provides for other person to pay, only after all current support and all accrued arrears owed by party have been paid? Currently a check box on form.	Form FL-336 has been modified to include the reference to Government Code section 68637(d).
Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, California	The plain language in item 3a. appears to be sufficient, but it may be advisable to include the statutory language.	The form has been modified as proposed.

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### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Form FL-337		
Commentator	Comment	Committee Response
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FL-337: This form added to an OSC or NOM form would seem to add the burden to the parties. Again, why not tailor the request for a hearing as we do the “Request for Hearings on Wage Assignments (FL-450)” where the party completes one section and the clerk’s office sets the hearing and completes certificate of mailing. Doing so would be easier handling for all users.	The direction that Judicial Council form style is taking as the computerized Court Case Management System is being developed is to separate forms as much as possible into those completed by litigants and those completed by the court or court personnel. For technological reasons, a court system may not be able to support one form that is required to be completed by both court and litigant. Therefore, the committees decided that proposed FL-337 should remain as a separate form.

Form FL-338		
Commentator	Comment	Committee Response
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	FL-338: Again, not sure why this form does not follow the same format as is being used in the FW series of forms. Format should stay consistent and should contain some designation at the top that it is a court-prepared form as it may be a problem to depend on litigants to prepare this form.	The committees decided that the family law fee waiver forms should remain consistent with the existing format of the other forms in the FL- series.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Appellate Rules and Forms</b>		
<b>General</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	Disagree with conclusion that the term "appellate court" appears to encompass the superior court appellate division. In any event it will make everything simpler to NOT include the appellate division with the Courts of Appeal and Supreme Court. A similar oversight existed with the initial legislature to provide for state wide trial court finding in regard to how the appellate divisions were regarded .	The committees agree that there are important distinctions between the procedures for waiver of superior court fees, including fees for matters heard by the superior court appellate division, and fees for matters heard by the Supreme Court and the Courts of Appeal and that these distinctions should be made as clear as possible in the fee waiver rules and forms. However, the committees concluded that separate statutory requirements for fee waivers in appellate courts which, for example, establish different requirements concerning hearings on the denial of a fee waiver request, are appropriately applied to fee waivers in matters heard by the superior court appellate division.

<b>Appellate Rules and Forms</b>		
<b>Question - Should the appellate rules or information sheet address the number of fee waiver request forms that must be submitted?</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	Yes	The committees have revised proposed rule 8.26 (rule 8.102 as circulated for comment), relating to fee waivers in appeals to the Courts of Appeal, and information sheet to indicate that, in an appeal heard in the Court of Appeal, the court may require a litigant to submit two copies of the fee waiver request.
California Appellate Court Clerk's	YES i.e. 2.	See response to comment of Grace Andres above

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Appellate Rules and Forms</b>		
<b>Question - Should the appellate rules or information sheet address the number of fee waiver request forms that must be submitted?</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Association by Joseph Lane Clerk Court of Appeal, Second Appellate District		indicating that information sheet has been revised to address this.
Joseph Lane Clerk Court of Appeal, Second Appellate District	YES i.e. 2.	See response to comment of Grace Andres above indicating that information sheet has been revised to address this.
The State Bar of California's Committee on Administration of Justice Saul Bercovitch Legislative Counsel	CAJ believes that the rules and information sheet should indicate the number of forms that must be submitted.	See response to comment of Grace Andres above indicating that information sheet has been revised to address this.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	If a separate form is required for the Appellate Court a statement warning that there are different forms for the Superior Court and the Appellate Court might be helpful to litigants. The information sheets for both courts would seem the most practical way to notice the litigants.	See response to comment of Grace Andres above indicating that information sheet has been revised to address this.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Appellate Rules and Forms</b>		
<b>Question - Should the rules or information sheet address the possible delegation of authority to the superior court to determine eligibility for waiver of Court of Appeal fees?</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	No.	Based on the weight of the comments received, the committees have not included information about possible delegation of authority to the superior court in the rules or forms.
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	NO. Not necessary and would be confusing as only one of the 6 Courts of Appeal delegates this authority	See response to comment of Grace Andres above indicating that this information has not been included in the rules or forms.
Joseph Lane Clerk Court of Appeal, Second Appellate District	NO. Not necessary and would be confusing as only one of the 6 Courts of Appeal delegates this authority.	See response to comment of Grace Andres above indicating that this information has not been included in the rules or forms.
Benjamin G. Shatz Certified Specialist in Appellate Law The State Bar of California Board of Legal Specialization Manatt, Phelps & Phillips, LLP Los Angeles, California	In response to the question on page 16, it would make sense for the rules and information sheet to address the possible delegation of authority to the superior court to determine eligibility for waiver of appellate fees. Although ultimate authority for a waiver of appellate fees rests with the court of appeal, it makes sense for that authority to be delegated to the superior court.	See response to comment of Grace Andres above indicating that this information has not been included in the rules or forms.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and	I don't think that the authority should be delegated from the Appellate Court to the Superior Court for waivers filed in the Court of Appeal.	See response to comment of Grace Andres above indicating that this information has not been included in the rules or forms.

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### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Appellate Rules and Forms		
Question - Should the rules or information sheet address the possible delegation of authority to the superior court to determine eligibility for waiver of Court of Appeal fees?		
Commentator	Comment	Committee Response
by Cydney Fowler Court District Manager/Chair, Civil Operations Committee		
The State Bar of California's Committee on Administration of Justice by Saul Bercovitch Legislative Counsel	Comments are also sought on whether the rules or information sheet should address the possible delegation of authority to the superior court to determine eligibility for waiver of Court of Appeal fees. CAJ believes that the rules should clearly specify 1) which form to use, and 2) the court in which that form should be filed. If those points are made clear to the litigants, CAJ does not believe there is any need for the rules to address the possible delegation of authority, which may be additional (and potentially confusing) information that does not appear to have a practical impact on the litigants.	See response to comment of Grace Andres above indicating that this information has not been included in the rules or forms.
Superior Court of San Mateo County by Timothy Gee Management Analyst III Planning and Development Division Redwood City, California	The rules or information should not address the possible delegation of the authority to the superior court to determine eligibility. To do so would possibly confuse the applicant. In order to avoid any a delay in process time and staff time in processing waivers, there should be only one entity that determines if a waiver is going to be granted or denied. It does not make sense to have both the Court of Appeal and the Superior Court determine the same waiver request. It should be one or the other. Since the Court of Appeal is the higher court, I say that the appellant should file any waiver request pertaining to an appeal to the Court of Appeal first.	See response to comment of Grace Andres above indicating that this information has not been included in the rules or forms.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Appellate Rules</b>		
<b>Question - Should both the trial and appellate rules list the fees for the clerk's transcript on appeal among the fees waived when a fee waiver is granted, and, if so, should the same language be used to describe the fees waived in both the trial and appellate rules?</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	NO.	The committees have revised proposed rule 8.26 (rule 8.102 as circulated for comment), relating to fee waivers in appeals to the Courts of Appeal, to eliminate clerk's transcript fees from the list of fees that may be waived under this rule and have revised the accompanying advisory committee comment to indicate that a request can be made to the superior court to waive the clerk's transcript fees. However, as discussed in response to comments below, the committees are also proposing a single fee waiver request form, so that a litigant can request waiver of all these fees at the same time on a single form.
Joseph Lane Clerk Court of Appeal, Second Appellate District	NO.	See response to comment of the California Appellate Court Clerk's Association above indicating that the appellate rules were revised to eliminate clerk's transcript fees from the list of fees that may be waived.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Division Court District manager/Chair, Civil Operations Committee	Currently the fees related to clerk's transcripts on appeal are covered on the initial waiver. If the duration of the waiver had passed at the time of filing an appeal, the litigant had to file a new application. I would say yes, the clerk's transcript is included in a waiver and the language should be the same. See #4 above.	See response to comment of the California Appellate Court Clerk's Association above indicating that the appellate rules were revised to eliminate clerk's transcript fees from the list of fees that may be waived.

<b>Appellate Rules</b>
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## W09-01

### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

General		
Commentator	Comment	Committee Response
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	The rule governing fee waivers in the Courts of Appeal and Supreme Court should be located in Chapter 1 and not Chapter 2 as proposed since the rule will apply to the Courts of Appeal and the Supreme Court, and cover Appeals, Original Proceedings and Petitions for Review. It is much simpler and less confusing to locate this rule in one location rather than lengthening the rules further to include additional rules throughout.	The committees agree with this suggestion and have relocated and renumbered the rule as suggested by the commentator.
	The rule and forms should be modified to reflect that they apply to the Courts of Appeal and the Supreme Court.	The committees agree with this suggestion and have modified the rule and forms to reflect this as suggested by the commentator.
	The rule and forms should be modified to indicate that they also cover petitions for review in the Supreme Court.	The committees agree with this suggestion and have modified the rule and forms to reflect this as suggested by the commentator.
	The rule must include information as to the effect of a denial. See current rule 3.55.	The committees agree with this suggestion and have modified the rule to include such provision as suggested by the commentator. However, the committees have used the language from Government Code section 68634.5 concerning the effect of a denial.
	<p>Suggests amending rule 8.102 as follows:</p> <ul style="list-style-type: none"><li>• Renumber it as rule 8.26 and change all cross-references in the rules accordingly</li><li>• Amend subdivision (c) as follows:</li></ul> <p><b>(c) Filing the application</b></p> <p><u>(1) Appeals</u></p>	<p>As indicated above, the committees agree with this suggestion and have relocated and renumbered the rule as suggested by the commentator.</p> <p>As indicated above, the committees agree with this suggestion and have modified the rule as suggested by the commentator.</p>

## W09-01

### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Appellate Rules		
General		
Commentator	Comment	Committee Response
	<p>The appellant should submit the application for initial waiver of court fees and costs for an appeal with the notice of appeal in the superior court that issued the judgment or order being appealed. The respondent should file any application for initial waiver of the court fees and costs for an appeal at the time the fees are to be paid to the court.</p> <p><u>(2) Original Proceedings</u> <u>The petitioner should submit the application for waiver of the court fees and costs for an original proceeding with the writ petition.</u></p> <p><u>(3) Petitions for Review</u> <u>The petitioner should submit the application for waiver of the court fees and costs for a petition for review in the Supreme Court with the petition.</u></p> <ul style="list-style-type: none"><li>Amend subdivision (f) as follows:</li></ul> <p><b>(f) Court fees and costs waived</b></p> <p>Court fees and costs that must be waived on granting an application for initial waiver of court fees and costs for an appeal include:</p> <p>(1) The fee for filing the notice of appeal;</p> <p>(2) The <del>\$100 deposit</del> <u>fee for filing an original proceeding</u> required under Government Code section 68926.4;</p>	<p>As indicated above, the committees agree with this suggestion and have modified the rule as suggested by the commentator. However, as also indicated above, the committees have revised the accompanying advisory committee comment to indicate that a request can be made to the superior court to waive the clerk's transcript fees and the committee is also proposing a single fee waiver request form, so that a litigant can request waiver of all these fees at the same time on a single form.</p>

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### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Appellate Rules		
General		
Commentator	Comment	Committee Response
	<p>(3) The <del>68927</del>clerk's fees for preparing and certifying the clerk's transcript on appeal and for copying and transmitting a copy of this transcript to the applicant <del>fee for filing a petition for review required by Government Code section</del>; and</p> <p>(4) Any court fee for telephonic oral argument.</p> <ul style="list-style-type: none"><li>• Add the following new subdivision (g):</li></ul> <p><b>(g) Effect of Denial of Application : Time for payment of fees</b></p> <p>If an application is denied, any paper filed without payments of fess is ineffective unless the fees are paid within 10 days after notice is given by the clerk.</p>	<p>As indicated above, the committees agree with this suggestion and have modified the proposed rule. However, the committees have used the language from Government Code section 68634.5 concerning the effect of a denial, which provides that if an application is denied, the applicant must pay the court fees and costs that ordinarily would be charged within 10 days after the clerk gives notice of the denial.</p>
Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>The following comments are as to Rules; 8.100, 8.122, 8.832, 8.832.</p> <p>The rule governing fee waivers in the Courts of Appeal and Supreme Court (proposed rule 8.122) should be located in Chapter 1 and not Chapter 2 as proposed since the rule will apply to the Courts of Appeal and the Supreme Court, and cover Appeals, Original Proceedings and Petitions for Review. It is much simpler and less confusing to locate this rule in one location rather than lengthening the rules further to include additional rules throughout.</p> <p>The rules should be modified to reflect that they apply to the Courts of Appeal and the Supreme Court.</p>	<p>See response to comment of the California Appellate Court Clerk's Association above.</p>

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### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Appellate Rules		
General		
Commentator	Comment	Committee Response
	<p>The rules should be modified to indicate that they also cover petitions for review in the Supreme Court.</p> <p>The rule must include information as to the effect of a denial. (See current rule 3.55.)</p> <p>Suggests same amendments to rule 8.102 as suggested by the Appellate Clerk's Association</p>	
<p>Benjamin G. Shatz Certified Specialist in Appellate Law The State Bar of California Board of Legal Specialization Manatt, Phelps &amp; Phillips, LLP Los Angeles, California</p>	<p>On page 14 of the proposal is a listing of fees typically incurred on appeal. One fee that's missing is the cost for obtaining an audio recording of oral argument (which is typically \$20-\$30, depending on the court). I suppose if all other fees are waived, that one should be too.</p>	<p>The committees agree with this suggestion and have modified proposed amendments to rule 8.821, relating to appeals in the superior court appellate division, to list the fee for obtaining an audio recording among the fees that are waived.</p>
<p>The State Bar of California's Committee on Administration of Justice by Saul Bercovitch Legislative Counsel</p>	<p>Because of the different procedures established by the new fee waiver statutes and because the court fees that may be waived in appellate proceedings are much more limited than in trial court proceedings, the Appellate Advisory Committee has proposed separate rules and forms specifically addressing fee waivers in the appellate courts. CAJ supports this approach, and agrees that specific rules setting out the requirements applicable to fee waivers in appellate proceedings will make the applicable provisions easier for litigants, particularly self-represented litigants, to find and to understand.</p> <p>* * *</p>	

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Appellate Rules</b>		
<b>General</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	Proposed rule 3.53 states that the clerk must notify an applicant for an initial fee waiver in the trial court if the application is deemed granted and must do so by serving a mandatory form five court days after the application is filed. There is no comparable provision in the proposed rules requiring notice that an application for fee waiver in the Court of Appeal is deemed granted, and no comparable form. CAJ believes that such a provision should be added to the rules and a mandatory form provided. The Advisory Committee comments to proposed rule 8.102(c) and rule 8.821(c)(4) state, "The court will notify an applicant if an application is deemed granted." CAJ believes that a rule should expressly require such notice on a mandatory form in language that is parallel to rule proposed rule 3.53.	The committees agree with this suggestion and have modified the rule to include this provision as suggested by the commentator.

**W09-01****Civil: Fee Waiver Rules and Forms**

All comments are verbatim unless indicated by an asterisk (\*).

<b>Appellate Forms</b>		
<b>General Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	Appellate Fee Waiver Forms-I like these forms and information sheet. There is always controversy concerning what fees can be waived and the information sheet covers most questions.	No response required.
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	The rule and forms should be modified to reflect that they apply to the Courts of Appeal and the Supreme Court.  The rule and forms should be modified to indicate that they also cover petitions for review in the Supreme Court.	The committees have revised the proposed forms to clarify that they cover waiver of fees for petitions for review and writ proceedings in the California Supreme Court.
Superior Court of Kern County Family Law Division—Metro by Marisol C. Alcantar Court Supervisor—Family Law Metro Bakersfield, California	APP forms: With respect to the waiver of fees, I would request that changes simply be made consistent to both general fee waivers and Appeal waivers.	Where the appellate forms address the same issue as the trial court forms, the committees have made the language consistent.

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### Civil: Fee Waiver Rules and Forms

All comments are verbatim unless indicated by an asterisk (\*).

Appellate Forms		
Question - Should there be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests?		
Commentator	Comment	Committee Response
Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	Separate forms. Otherwise the information sheet and forms will become too complicated for most self-represented litigants to navigate.	Based on the weight of the comments and in the interest of making the request process as simple as possible, the committees are proposing a single fee waiver request form. However, because of the differences in fee waivers in the trial and appellate courts, the committees are still proposing that there be separate information sheets addressing waivers in trial and appellate proceedings.
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>Since it appears that it will not be possible to satisfy the needs of the trial courts and the appellate courts with one form, we recommend that there be a separate Form for use in the California Courts of Appeal and Supreme Court. That this form NOT be for use by the appellate division of the trial courts. Instead, the forms for use in the trial courts should be used in their appellate division.</p> <p>This will lessen confusion, enable the appellate forms additional room for information that applies solely to their courts and follow more closely the procedures in place in the trial courts, i.e. the fees in the appellate department are automatically waived if the trial court has granted a waiver.</p>	See response to comment of Grace Andres above indicating that the committees are proposing a single application form.
Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>I would like to recommend that one uniform set of FORMS be adopted. Unfortunately, I am not sure of a way to modify the forms to insure that the needs of the trial court, courts of appeal and Supreme Court can be met without enlarging the forms beyond the preference of two pages.</p> <p>However, I do believe that it may be possible if we limit the</p>	See response to comment of Grace Andres above indicating that the committees are proposing a single application form.

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
Question - Should there be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests?		
Commentator	Comment	Committee Response
	<p>information on the Initial Application for Waiver to just the information needed by the courts to effectively determine eligibility. As proposed, the forms include information for the applicant that is not necessary for the courts. E.g. the first two paragraphs of form FW-001.</p> <p>Also, the proposed form includes information concerning counsel. Since the vast majority of applicants will not have counsel, it might be simpler to have a different form to be used by those who do have counsel, as well as having an area that is filled out by counsel. This would save a lot of space that would be better used.</p>	
<p>Legal Aid Foundation of Los Angeles, Bet Tzedek Legal Services, Harriett Buhai Center for Family Law, Public Law Center of Orange County, and Western Center on Law and Poverty by Toby J. Rothschild General Counsel Legal Aid Foundation of Los Angeles Los Angeles, California</p>	<p>As explained in the Invitation to Comment, “[b]ecause both the trial and appellate court charge fees in civil appeals and share responsibility for collecting those fees, there are some special issues and questions concerning how to handle fee waivers in these cases.” In particular, indigent litigants pursuing civil appeals frequently have difficulty understanding whether they must file a fee waiver application in the superior court, the Court of Appeal, or both courts. Sometimes these litigants obtain a fee waiver from the Court of Appeal (for the filing fee), but, through inadvertence, fail to obtain a fee waiver from the superior court (for the \$100 deposit), leading to default and dismissal of the appeal.</p> <p>It would greatly assist these litigants –and simplify the process of seeking fee waivers for appeals –if they could submit one fee waiver application to one court (e.g., the superior court under a delegation of authority from the Court of Appeal), which could</p>	<p>See response to comment of Grace Andres above indicating that the committees are proposing a single application form.</p>



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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
Question - Should there be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests?		
Commentator	Comment	Committee Response
	determine eligibility for waiver for all appellate expenses (i.e., the notice of appeal, \$100 deposit, clerk's transcript, telephonic oral argument). An added benefit of this arrangement is that only one fee waiver application would be needed -- it would not be necessary to have a separate form for appeals. (See Invitation, page 15 ["Given the similarity in these forms, the committee would particularly appreciate comments on whether there should be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests"].) The appellate rules, forms, and information sheets should be modified to accomplish these objectives.	
Public Counsel Law Center by Lisa Jaskol Directing Attorney Los Angeles, California	<p>As explained in the proposal's Discussion, "[b]ecause both the trial and appellate court charge fees in civil appeals and share responsibility for collecting those fees, there are some special issues and questions concerning how to handle fee waivers in these cases." (Discussion, page 15.) In particular, indigent litigants pursuing civil appeals frequently have difficulty understanding whether they must file a fee waiver application in the superior court, the Court of Appeal, or both courts. Sometimes these litigants obtain a fee waiver from the Court of Appeal (for the filing fee), but, through inadvertence, fail to obtain a fee waiver from the superior court (for the \$100 deposit), leading to default and dismissal of the appeal.</p> <p>It would greatly assist these litigants – and simplify the process of seeking fee waivers for appeals – if they could submit one fee waiver application to one court (e.g., the superior court under a delegation of authority from the Court of Appeal),</p>	See response to comment of Grace Andres above indicating that the committees are proposing a single application form.

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
Question - Should there be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests?		
Commentator	Comment	Committee Response
	which could determine eligibility for waiver for all appellate expenses (i.e., the notice of appeal, \$100 deposit, clerk's transcript, telephonic oral argument). An added benefit of this arrangement is that only one fee waiver application would be needed – it would not be necessary to have a separate form for appeals. (See Discussion, page 15 [“Given the similarity in these forms, the committee would particularly appreciate comments on whether there should be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests”].) The appellate rules, forms, and information sheets should be modified to accomplish these objectives.	
Benjamin G. Shatz Certified Specialist in Appellate Law The State Bar of California Board of Legal Specialization Manatt, Phelps & Phillips, LLP Los Angeles, California	In response to the question on page 15 about whether there should be separate request forms for appeals and writs, or simply a single form for use in all courts (trial and appellate), it would seem that having a single form would be easiest. The users of these forms are likely to be unsophisticated, and if there are multiple forms to choose from, inevitably the wrong choice will be made by some. Thus, a single form that could be used in all courts would be the most streamlined approach.	See response to comment of Grace Andres above indicating that the committees are proposing a single application form.
The State Bar of California's Committee on Administration of Justice Saul Bercovitch Legislative Counsel	CAJ also believes that a separate request form applicable to fee waivers in appellate proceedings will make the form easier for litigants to use.	See response to comment of Grace Andres above indicating that the committees are proposing a single application form.
Superior Court of Orange County by Civil and Small Claims	Single form is preferred.	See response to comment of Grace Andres above indicating that the committees are proposing a single

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
<b>Question - Should there be a separate request form for appeals and writ proceedings in the Court of Appeal or a single form that covers all fee waiver requests?</b>		
Commentator	Comment	Committee Response
Managers Santa Ana, California		application form.
Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	It appears that since there are differences in the rules for Superior Court and the Appellate Court that there should be separate forms for clarity and to ensure the forms conform to the applicable rules. If there was one set of forms with information for all circumstances encountered at both the Superior Court level and the Appellate Court level it might tend to confuse litigants.	See response to comment of Grace Andres above indicating that the committees are proposing a single application form.

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
Question - Should the proposed fee waiver request and order forms for use in the Court of Appeal be made applicable for use in the superior court appellate division?		
Commentator	Comment	Committee Response
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>NO. The appellate division should use the same form for use in their trial court</p> <p>Since it appears that it will not be possible to satisfy the needs of the trial courts and the appellate courts with one form, we recommend that there be a separate Form for use in the California Courts of Appeal and Supreme Court. That this form NOT be for use by the appellate division of the trial courts. Instead, the forms for use in the trial courts should be used in their appellate division.</p> <p>This will lessen confusion, enable the appellate forms additional room for information that applies solely to their courts and follow more closely the procedures in place in the trial courts, i.e. the fees in the appellate department are automatically waived if the trial court has granted a waiver.</p> <p>The forms should be modified to indicate that they are for use ONLY in the Courts of Appeal and Supreme Court and NOT for use in an Appellate Division or appeals arising from a limited civil case.</p>	As indicated above, based on the weight of the comments and in the interest of making the request process as simple as possible, the committees are proposing a single fee waiver request form. However, the committees are not recommending that the appellate division use the same order form as the Court of Appeal.
Joseph Lane Clerk Court of Appeal, Second Appellate District	NO. The appellate division should use the same form for use in their trial court	See response to comment of the California Appellate Court Clerk's Association above indicating that the committees are proposing a single fee waiver application form but separate order forms.
Superior Court of San Bernardino	It seems that the proposed appeals forms should be used for all	See response to comment of the California Appellate

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
Question - Should the proposed fee waiver request and order forms for use in the Court of Appeal be made applicable for use in the superior court appellate division?		
Commentator	Comment	Committee Response
County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee	appeals whether filed in the appellate division of the superior court or at the Court of Appeals. There should be a check box on the appeals waiver forms to indicate if the appeal arises from a limited case or unlimited. The forms would then be consistent with waiver of appellate fees.	Court Clerk's Association above indicating that the committees are proposing a single fee waiver application form but separate order forms.

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
<i>Request to Waive Court Fees for Appeal or Writ Proceeding in Court of Appeal (form APP-015/FW-015)</i>		
Commentator	Comment	Committee Response
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>Suggest the following revisions to form:</p> <ul style="list-style-type: none"><li>• Change title of form to read: Request to Waive Court Fees <del>for Appeal or Writ Proceeding</del> in Court of Appeal <u>or Supreme Court</u>.</li><li>• Change first line on form to read: This form asks the court to waive court fees and costs in an appeal, <u>petition for review</u>, or writ proceeding in the Court of Appeal <u>or Supreme Court</u>.</li><li>• In item 1, suggest striking parenthetical: <i>(person asking the court to waive the fees)</i>.</li><li>• In box for superior court information, suggest eliminating the superior court address.</li><li>• In box for Court of Appeal Case number, suggest making the box bigger and revising second line to read: <del>Appellate District Division Number</del>.</li></ul>	<p>As indicated above, based on the weight of the comments and in the interest of making the request process as simple as possible, the committees are proposing a single fee waiver request form.</p> <p>The title of the proposed single application form does not refer to any specific court</p> <p>The proposed single application form includes references to waiver of Supreme Court fees.</p> <p>The committees decided that this parenthetical provides helpful information for self-represented litigants and have therefore not deleted it as suggested by the commentator.</p> <p>Since the single fee waiver request form would be used by both the superior courts and the Courts of Appeal and Supreme Court, the committees have not deleted this address as suggested by the commentator because the committees believe that this provides helpful information about superior courts.</p> <p>The committees have made the change suggested by this commentator, but have also modified this box so that it can be used to provide any appellate court case number.</p>

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
<i>Request to Waive Court Fees for Appeal or Writ Proceeding in Court of Appeal (form APP-015/FW-015)</i>		
Commentator	Comment	Committee Response
	<ul style="list-style-type: none"><li>On second page, suggest deleting final line under all of the items (i.e., if there are five lines, reducing to 4).</li><li>In box on second page, suggest deleting the second paragraph as something that should be covered on order form or information sheet.</li></ul> <p>*Also questioned why form did not include information about spouse's employment.</p>	<p>The committees agree with this suggestion and have revised the proposed form as suggested.</p> <p>The committees determined that it is important to include the information in this box on the application form and so have not removed this box from the form.</p> <p>The third page of the form includes spaces to provide information about spousal income if the fee waiver request is being made on the basis that the applicant has insufficient resources to cover court fees and basic household needs.</p>
Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>The following comment is as to forms APP-015 and APP-016, and is provided in case it is decided to have specific forms for the appellate courts. The forms must be modified to indicate that they are for use ONLY in the Courts of Appeal and Supreme Court and NOT for use in an Appellate Division or appeals arising from a limited civil case. Regardless of whether the legislation intended to include the appellate divisions of the trial courts as appellate courts, the forms used in the Courts of Appeal and Supreme Court should be separate and distinct from those used in the appellate divisions of the trial courts. This is especially true given the integrated nature of the fee waiver process in the trial courts, which allows end-to-end waiver of fees and costs.</p> <p>*In addition, commentator submitted the same specific comments as California Appellate Court Clerk's Association.</p>	<p>See response to comment of the California Appellate Court Clerk's Association above.</p>

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<b>Appellate Forms</b>		
<i>Information Sheet on Waiver of Court Fees and Costs for Appeal or Writ Proceeding (form APP-015/FW-015-INFO)</i>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
California Appellate Court Clerk's Association by Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>Suggest the following revisions to form:</p> <ul style="list-style-type: none"> <li>• Change title of form to read: Information Sheet on Waiver of Court Fees for Appeal, <u>Petition for Review</u>, or Writ Proceeding</li> <li>• Delete all references to the superior court appellate division</li> <li>• Delete reference to waiver of court fees for telephonic oral argument, as would be misleading because each district has different procedures. Also suggest that any request for waiver of these fees should be made at the time the party requests oral argument. The fees due date is often too close to the argument date. Those courts that have telephonic oral argument fees require the parties to notify the court requesting oral argument and the request for waiver should be made at the same time.</li> <li>• On page 2, third bulleted paragraph, change reference to "filing" the fee waiver request to "submitting" the request.</li> <li>• On page 2, add a section providing information on fee waiver request for petitions for review.</li> </ul>	<p>The committee believes that it is important to provide information about fee waivers in appeals and writ proceedings in the superior court appellate division and that it is preferable to provide this in a single form that addresses waivers in all the appellate courts. The committee therefore decided not to make the changes suggested by the commentator. Instead it has revised the form title to read "Information on waiver of Court Fees, (Supreme Court, Court of Appeal, Appellate Division).</p> <p>The committees believe that it is appropriate for the fee waiver form to list all of the fees that will be waived if the court grants a waiver. While a litigant may use the form at the time of oral argument is requested, the court could also waive all of its fees at the outset of a proceeding.</p> <p>The committee agrees with this suggestion and has revised the proposed form as suggested.</p> <p>The committee agrees with this suggestion and has revised the proposed form to include this information.</p>
Joseph Lane Clerk Court of Appeal, Second Appellate District	The following comment is as to forms APP-015 and APP-016, and is provided in case it is decided to have specific forms for the appellate courts.	See response to comment of the California Appellate Court Clerk's Association above.



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<b>Appellate Forms</b>		
<i>Information Sheet on Waiver of Court Fees and Costs for Appeal or Writ Proceeding (form APP-015/FW-015-INFO)</i>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>The forms must be modified to indicate that they are for use <b>ONLY</b> in the Courts of Appeal and Supreme Court and <b>NOT</b> for use in an Appellate Division or appeals arising from a limited civil case. Regardless of whether the legislation intended to include the appellate divisions of the trial courts as appellate courts, the forms used in the Courts of Appeal and Supreme Court should be separate and distinct from those used in the appellate divisions of the trial courts. This is especially true given the integrated nature of the fee waiver process in the trial courts, which allows end-to-end waiver of fees and costs.</p> <p>In addition, commentator submitted the same specific comments as California Appellate Court Clerk's Association.</p>	
<p>Superior Court of San Bernardino County by Monica Mitchell Supervising Attorney, Self Help Services, and by Cydney Fowler Court District Manager/Chair, Civil Operations Committee</p>	<p>Proposed forms indicate that if either an appellant or respondent has received a fee waiver in the trial court, all of the trial court fees associated with preparing, copying, and transmitting the clerk's transcript on appeal have already been waived.</p> <p>If the waiver is still active at the time the fee for transmittal is due, this would be practical. If not another waiver would have to be filed at the appropriate court level for the appeal. A blanket statement that any prior waiver filed in the trial court will waive the fees associated with the clerk's transcript may be overbroad but only because of duration issues. Rule 8.104 allows for an appeal to be filed within 60 days after the court clerk mails the Notice of Entry. Under the newly clarified duration of the waiver in AB 2448, the duration of the waiver is 60 days after judgment. An appeal could be filed beyond the duration of the waiver if the Notice of Entry is mailed after the</p>	<p>The committee appreciates this comment and has revised the forms to highlight the fact only an active fee waiver will cover the cost of the clerk's transcript. The committee has also added additional information about the expiration date to the information sheet.</p>

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<b>Appellate Forms</b>		
<i>Information Sheet on Waiver of Court Fees and Costs for Appeal or Writ Proceeding (form APP-015/FW-015-INFO)</i>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	judgment is entered and the litigant files an appeal near the end of the 60 day appeal period running from the mailing of the notice of entry by the clerk.	

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Appellate Forms		
<i>Court Fee Order (Court of Appeal) (form APP-016/FW-016)</i>		
Commentator	Comment	Committee Response
California Appellate Court Clerk's Association	<p>The order part of Form <b>APP-016/FW-016</b>, Page 1 of 2, should be modified to make the ruling more noticeable and the form less cluttered. The court has two options a. GRANT or b. DENY. So there should be just two boxes to check initially, i.e. a. granted or b. denied. Then under DENIED there should be three subsequent boxes indicating the reason for the denial. Regardless of the reason, the applicant has the same amount of time to respond and one of the options is the same i.e. Pay. A lot of space will be saved and the ruling made easier to understand if the change is made.</p> <p>"Denied: You have 10 days from the date of this notice to pay your fees or costs or:</p> <p>1__ Your request is incomplete. File a new revised request that includes the items listed below:</p> <p>_____.</p> <p>2.____ The information provided does not show that you are eligible because:</p> <p>_____.</p> <p>File a revised a revised request that shows you are eligible.</p> <p>3.____ Your eligibility has not been proven because:</p> <p>_____.</p> <p>File the following documents to support your request.</p> <p>_____</p> <p>_____”</p>	<p>The committees agree that this form should be condensed and made clearer. The committees have revised the form to more clearly list the three actions the court may take: grant, deny, or set a hearing, and has listed the possible reasons for denial within options. However, for clarity's sake, the committees have retained the language about the kinds of actions an applicant can take in response to each kind of denial.</p>

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
<i>Court Fee Order (Court of Appeal) (form APP-016/FW-016)</i>		
Commentator	Comment	Committee Response
	<p>Also suggest the following revisions to form:</p> <ul style="list-style-type: none"><li>• Change title of form to read: <del>Court Fee Order</del> (<u>Supreme Court or Court of Appeal</u>).</li><li>• Delete the warning boxes.</li><li>• In box for superior court information, suggest eliminating the superior court address.</li></ul> <p>Change the time periods indicated for taking action based on the order from 15 to 10 days. Current rule and new language in government code both refer to 10 days. We should be consistent. See Govt. Code 68634. (g) If an application is denied in whole or in part, the applicant shall pay the court fees and costs that ordinarily would be charged, or make the partial payment as ordered by the court, within 10 days after the clerk gives notice of the denial, unless within that time the applicant submits a new application or requests a hearing under subdivision (e). If the applicant does not pay on time, the clerk shall void the papers that were filed without payment of the court fees and costs.</p>	<p>The committees declined to delete the reference to Court Fee in the title of this form, but did add a reference to the Supreme Court.</p> <p>The committees revised the form to create a single warning box at the end of the denial portion of the form.</p> <p>Because this form would only be used by the Supreme Court and the Court of Appeal, the committee revised the form as suggested.</p> <p>As suggested by the commentator, the committees revised the form to indicate that the applicant must take action within 10 days of the date the notice was sent. The committees note, however, that it is Government Code section 68634.5, not section 68634, that governs fee waivers in the appellate courts.</p>
Joseph Lane Clerk Court of Appeal, Second Appellate District	<p>The following comment is as to forms APP-015 and APP-016, and is provided in case it is decided to have specific forms for the appellate courts.</p> <p>The forms must be modified to indicate that they are for use ONLY in the Courts of Appeal and Supreme Court and NOT for use in an Appellate Division or appeals arising from a</p>	<p>This form, <i>Court Fee Order (Supreme Court or Court of Appeal)</i> (form APP-016/FW-016), is intended for use only by the Supreme Court or Court of Appeal.</p>

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
<i>Court Fee Order (Court of Appeal) (form APP-016/FW-016)</i>		
Commentator	Comment	Committee Response
	<p>limited civil case. Regardless of whether the legislation intended to include the appellate divisions of the trial courts as appellate courts, the forms used in the Courts of Appeal and Supreme Court should be separate and distinct from those used in the appellate divisions of the trial courts. This is especially true given the integrated nature of the fee waiver process in the trial courts, which allows end-to end waiver of fees and costs.</p> <p>In Form <b>APP-016/FW-016</b>, Page 1 of 2, keep the amount of time to respond to 10 days. Current rule and new language in government code both refer to 10 days. We should be consistent. (See Govt. Code 68634. (g) <i>If an application is denied in whole or in part, the applicant shall pay the court fees and costs that ordinarily would be charged, or make the partial payment as ordered by the court, within 10 days after the clerk gives notice of the denial, unless within that time the applicant submits a new application or requests a hearing under subdivision (e). If the applicant does not pay on time, the clerk shall void the papers that were filed without payment of the court fees and costs</i>). Also, CCP1013 does not apply when the due date is from the date of the notice. Even when CCP 1013 applies, it is not abrogated by increasing the time in the rules.</p> <p>The order part of Form <b>APP-016/FW-016</b>, Page 1 of 2, should be modified to make it the ruling more noticeable and the form less cluttered. If the area on form <b>APP-016/FW-016</b>, Page 1 of 2 where modified to reflect something akin to:</p> <p>The court reviewed your request and makes the following order:</p>	<p>See response to comment of the California Appellate Court Clerk's Association above. As suggested by the commentator, the committees revised the form to indicate that the applicant must take action within 10 days of the date the notice was sent. The committees note, however, that it is Government Code section 68634.5, not section 68634 that governs fee waivers in the appellate courts.</p> <p>See response to comment of the California Appellate Court Clerk's Association above.</p>

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Appellate Forms		
<i>Court Fee Order (Court of Appeal) (form APP-016/FW-016)</i>		
Commentator	Comment	Committee Response
	<p>a. ___ Granted. You do not have to pay fees for the following:</p> <ul style="list-style-type: none"> <li>• The filing fee</li> <li>• Other:</li> </ul> <p>_____</p> <p>_____</p> <p>b. ___ Denied. You have <b>10 days</b> from the date this notice was sent to Pay your fees and costs, or:</p> <p>1. ___ Your Request is incomplete. File a revised form that includes the items listed below:</p> <p>_____</p> <p>_____</p> <p>2. ___ The information provided does not show that you are eligible because:</p> <p>_____.</p> <p>File a revised a revised request that shows you are eligible.</p> <p>3. ___ Your has not been proven because:</p> <p>_____</p> <p>_____</p> <p>File the following documents to support your request. _____</p> <p>_____</p> <p>A lot [of] space could be saved and the form would be clearer and less cluttered. It is important to first make it clear whether the request has been granted or denied. Showing three individual boxes for a denial is confusing. In addition,</p>	

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### Civil: Fee Waiver Rules and Forms

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Appellate Forms		
<i>Court Fee Order (Court of Appeal) (form APP-016/FW-016)</i>		
Commentator	Comment	Committee Response
	<p>regardless of the reason for denial, the time with which to respond is the same as is the option of paying the fees. Lastly, no Judicial Council form that is filled out by a judge or court employee should have to indicate directions such as “specify” “specify reasons” “describe issue” etc.</p> <p>Also suggest the following revisions to form:</p> <ul style="list-style-type: none"><li>• Change title of form to read: <del>Court Fee Order</del> <u>Court Fee Order (Supreme Court or Court of Appeal)</u>.</li><li>• Delete the warning boxes.</li><li>• In box for superior court information, suggest eliminating the superior court address.</li></ul>	